Kashmir:



From Autonomy To Azadi

Gull Mohd. Wani

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Compiled by:

GULL MOHD. WANI



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INTRODUCTION

Gull Mohd. Wani

Kashmir uprising which began in mid 1989 and its short and long term consequences constitute the theme of various contributions to this volume. The uprising is bound to produce a terrible fallout for all if not carefully handled (India , Pakistan and Kashmir). It is a truism that perceptions of the Kashmir problem are not those of consensus but of dissent. Every analyst of Kashmir scene is wittingly or unwittingly a protagonist who in varying degrees favours Kashmiri's accession to India or Pakistan, Kashmiri independence or some other alternative solution. The compilation of this diversity and divergence of views, constituting this book is intended to provide the reader with a glimpse of the range and complexity of the Kashmir problem, as well as to isolate and clarify the issues that must be confronted by decision - makers and analysts.

Kashmir, the land of contrasts, by virtue of its strategic position, literary balances the geo-politics of the region, covering an area of 84,494 sq. miles, larger than 68 sovereign countries of the world and situated in the north of the subcontinent and in the heart of South Central Asia, it has borders with Pakistan, Afghanistan, China and India.

A line drawn with blood divides Kashmir into two parts. Pakistan occupied Kashmir consisting of four districts with a population of 2.5 million while some two third of Kashmir with over 6.5 million people remain under the occupation of India, 5000 sq. miles under the control of China were ceded by Pakistan under a strategic agreement. One and a half million Kashmir's are refugees in Pakistan, more than 300,000 are perma-

nently settled in the United Kingdom as British citizens and nearly 100,000 are scattered around the world[1] .

It would be quite relevant to recount here the basic demographic break-up, according to religion, of the Jammu and Kashmir state. Of the total state population of about 60 lakh, the Muslims account for 64 per cent and Kashmiri Muslims are nearly 30 lakh i.e. about 50 per cent. In the Valley, the population of non-Muslims is about one and a half lakh only (including migrant Kashmiri pandits) as against a total population of over 31 lakh for the Valley.

As for the Jammu region, of the total population of about 27 lakh, there are about 8 lakh non-Hindus as against over 19 lakh Hindus. Another feature is that in Jammu province, the districts of Doda, Rajouri and Poonch have nearly 60 per cent to almost 90 per cent Muslim population. Poonch was previously one district but was later bifurcated into two districts of Poonch and Rajouri, both of which have a predominantly Muslim population. In the Muslim majority Doda district, Kishtwar Tehsil is 80 per cent Muslim whereas the Doda subdivision is almost evenly divided between two communities (The Muslim percentage is 52) and its third tehsil Baderwah has a Hindu majority of 70 per cent.

Ladakh, the biggest region of the state area-wise, has a total population of 1,34,000. Of this the Buddhists are in a majority i.e. about 54 per cent against 46 per cent Muslims. Originally one district but after the 1973 accord, it was bifurcated into two districts with a Muslim majority district of Kargil where Muslims constitute 77 per cent as against the Buddhists who are 22 per cent. In Leh District, the Buddhist are 85 per cent as against 15 per cent Muslims.

Kashmir was under the rule of Maharaja Hari Singh just before 1947, while the ruler was a Hindu, the population of Kashmir was pre-dominantly Muslim. According to the 1941 census, of the total population of 40,21,616, Muslims accounted for 31,00,000 and the Hindus 8,09,000 approximately. When the British left India, there were certain ambiguities over the future status of the Princely states. The Cabinet Mission Plan of May 6, 1946 had merely stated: "paramountancy can neither be retained by the British Crown nor transferred to the new government"[2]. The Indian Independence Act of 1947 had in theory, left the states legally independent when, "The sovereignty of His Majesty over the Indian states lapses"[3]. But

in practice such independence was ruled out.[4] The states were compelled to accede to one or the other Dominion in accordance with the broad principles of the partition itself. Muslim majority states located in territories contiguous to Pakistan would accede to Pakistan and the rest would go to India. In accordance with this recommendation, more than 500 states were integrated with India or Pakistan, without any major difficulty. In three cases Junaghar, Jodhpur and Hyderabad, where the rulers tried to remain independent or accede to Pakistan in breach of the partition plan. India used force to set right the anamalies [5].

In the circumstances, it would have appeared that Kashmir too would easily be disposed off. Over 75 per cent of the population was Muslim, the state was adjacent to Pakistan and irrespective of the wish of the ruler, the state would be integrated with Pakistan. The experience of other states had shown that the option of independence even if available in theory was ruled out in practice. But Kashmir, sharing frontiers both with India and Pakistan had some leverage which the Dogra ruler who had good reasons for not acceding unconditionally to either India or Pakistan intended to exploit. His regime was extremely unpopular with both the main political parties in Kashmir, the Pro-Pakistani Muslim Conference and the National Conference party. As a Hindu, he was unlikely to find favour with Pakistan but at the same time with over three quarters of his population Muslim, an accession with India would be popularly unacceptable. In the circumstances Hari Singh stalled.

When the Maharajah showed his indecisiveness about the accession, new forces started raising their head. Kashmir came under the tribal attack from Pakistan side. There are many reasons advanced by interested parties for the tribal incursion. Indeed Noel Baker and Lord Ismay blamed the atrocities of the Maharajah on the Muslims as the real cause of the conflict:

> The one indispensable condition of peace in
> Kashmir is to guarantee the security of the
> Muslims. The whole affair..... started with
> the massacre of Muslims instigated by the
> Prince. When threatened by reprisals......
> he (The Maharajah) took political refuge by
> requesting the accession of Kashmir to India.[6]

In any case Lord Mountbatten accepted the accession on October 27, 1947 and made it conditional on the aspirations of the Kashmirs to be ascertained through referendum. Kashmir was referred to the UNO by India at the insistence of Mountbatten to get Pakistan declared as an aggressor. In the UNO Pakistan found West as a natural allay in its diplomatic warfare with India over Kashmir. The west had a clear strategic objective. Since Kashmir dispute had become entangled in the cold war rivalry. The United States and Britain realised the enough advantage in supporting Pakistani stand on Kashmir to win back some of the influence in the Islamic world which they had lost due to their support for the Zionist demands in Palestine. Ernest Bevin, the British Foreign Secretary frankly admitted the considerable advantages in supporting Pakistan to further Britain's interest in the middle of the planet[7].

Since 1947 India has resorted to more subtle tactics in keeping Kashmir as a component of Indian Union. Though India has employed a variety of stratagems,, means and resources to suppress the desire of the Kashmirs for a separate state, the people of Kashmir have been relentlessly fighting against the authoritarian regimes imposed on them. The uprising in the Valley might mark a new stage in the resistance of the Kashmiri people to repression[8]. Undoubtedly armed militancy is a new phenomenon in the Kashmir Valley, whose residents always had a reputation for being placid. The uprising came as a surprise to both India and Pakistan. One of the qualitative changes that the Kashmir uprising had brought about is the coming back to life of what was generally perceived as a dead issue.

Politics Of Manipulation

Beginning with the arrest of Sheikh Mohammad Abdullah in 1953, the general character of New Delhi's policy towards Kashmir has been manipulative. Repeated rigging of elections, combined with opportunistic accords between the ruling groups sowed the seeds of dissension among the people. The Nehru - Abdullah Accord of 1952, the Congress rule from 1953 to 1973, the Indira -Abdullah Accord of 1975 and the Rajiv - Farooq Alliance of 1986 were like Machiavellian promises made under necessity and broken under necessity.

Thus the latest Kashmir crisis is the direct result of decades of political manipulation by India,, which is bound by 1947 agreement that granted Kashmiris the right to self determination. By supporting corrupt politi-

cians and filling public offices with time servers, the Indian government gradually aggravated an already unfavourable situation, some concomitants of which are: rampant corruption, suppression of the basic human rights and a pervading social and economic exploitation endured 42 years of the opportunistic regimes of Sheikh, Bakshi, G.M. Shah and Farooq Abdullah who did little to give a durable and sensible rule to the state. While discussing the reasons why this flash point has been reached, Meera Sharma an Indian Journalist observes: "Forty years of misrule and manipulation by Delhi, erosion of the powers, enshrined in article 370 of the Constitution which gives Jammu and Kashmir a special status and putting into cold storage of the promise of plebiscite have consolidated the people's desire for a separate state."

The Kashmir movement is a sustained and total response, over a period of time of the entire population against the large state. It is a final rejection, a complete break-down of communication. Hurt, pride, unheeded greviences, a desperation have unfolded into a movement. It explains the readiness to risk all. The brutality of the state merely appears to reinforce the determination for self-assertion. A brilliant analysis of the uprising was made in the early stages by G.H. Jansen who wrote:

Two things are clear. The Kashmiris of the Valley enmasse want to have done with India and they have lost enmasse their fear of India's security apparatus. When a people reach and pass that tip-over point between fear and non-fear, it is an awesome development which I was privileged to observe at first hand in Iran and the West Bank. It is also irreversible: Once fear is lost it can never be reimposed. And it is also irresistible, once the popular will, through political mistakes is allowed or forced to become really popular and really united. To describe this very important new element, this sea change in the popular will as a result of Pakistani subversion or of agitation by a small claque is surely to be purblind or ignorant. This means that if India tried to reimpose its will by force in Kashmir it will only provoke a guerrilla war".[9]

In recent years the guerrilla movement has become more extensive and broad based. Even some organs of the state have defied the writ of the Indian state. A case in point is the recent police mutiny. On April 23, 1993 men of Jammu & Kashmir Police joined by members of the fire brigade, traffic and other police Units using government trucks and waving guns marched to UN observer's office at Gupkar to present memorandum against

'state terrorism, repression and custodial deaths'. Kashmir University Teachers Association (KUTA) has also taken the lead in recent times to highlight the atrocities unleashed by the state against the Kashmiris. In this connection seminars and conferences have been conducted.

Repression:

The Indian state has shown complete bankruptcy in its dealings with the uprising. Failed methods, exhausted ideas and cultural stereotypes emanate from government. The bankruptcy has ensured over-reaction. They have neither understood the mood nor its causes. The problem is seen in simplistic terms, as one of law and order, one linked to terrorism, one created by fanatics and fundamentalist's. Bullets and Batons have been too frequently used. The only option Indian state has resorted to combat militancy is one often used as it seems militarily relatively easy is "Area Clearance". Area clearance involves the extermination or capture of the active guerillas and the brutal suppression of the civilian population living there. This does not respect any human rights and is not in consonance with civilized norms.

It is pertinent to point out here that Indian state has remained brutal towards all such movements. The response to Sikh assertion of independence was and is similarly harsh. It is the deep rooted Central Government nightmare of disintegration which is linked to the events of 1947. The only reaction to assertion of identity is suppression. "Pakistan" must never be allowed to happen again. However, such a reign of terror not only has ethical constraints but historical precedents of failure. During the second world war terror attacks against non-combatants in cities like London, Hamsburg, Tokyo etc. did not break the will to resist, instead it stiffened the resolve of the community at large to continue with the struggle. The situation on the ground is by and large similar to already summed up by Dr. A. Gordon in the 1991 annual reference edition of the Asian Pacific Defence Review, by writing: "Given the intractable nature of the problem, there appears to be no alternative from India's point of view but to sit it out and try meanwhile to ensure that the behaviour of the paramilitary and the army does nothing to perpetuate the v icious circle of hatred and recrimination that is currently in train".

Human Rights Violations

The UN General Assembly in 1948 proclaimed the universal decla-

ration of human rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this declaration commonly in mind, shall strive by teaching and education to promote respect for these rights and freedoms......[10]. Article 1 of the declaration reads "all human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" [11].

Ten years back, the World Human Rights Guide awarded India a human rights rating of 70%. Since the average rating of countries all over the globe was 58%, India's track record was creditable enough. India has slipped during the last decade and is slipping more at present especially in Kashmir. A recent report in a Western news paper has put the number of the innocent dead between 12000 - 20000, it noted that neither the rebels "nor the Government forces have suffered such heavy casualties" Mr. Holly Buyrkhatlter, the director of the Washington based human rights watch, has said that the killing of three human rights activists in Kashmir since December last has made the Valley "one of the most dangerous places in the world", to do human rights work. The reference was to the killing of Mr. H. U. Wanchoo, Dr. Farooq Ashai and Dr. A. A. Guru. Asia Watch and physicians for human rights released the final report in the year 1993 series on Kashmir entitled: "The Human Rights Crisis in Kashmir: a pattern of impunity" the document contains charges against Indian Security Forces, that they indulge in executions of hundreds of detainees, as part of a "Catch & Kill" policy to crush the militancy, that they resort to repraisal attacks on civilians, that they torture and rape with abandon. The report "documents 66 deaths in custody and other extra-judicial killings, 9 cases of torture, 15 rapes and numerous assaults on medical workers and violation of medical neutrality by Indian Security Forces". There can be no other confirmation of government forces being involved in excesses than the fact that in the last 3 years action was taken by the Government against 97 security forces personnel for rape, molestation and other misdemeanors. Of these, 38 had been imprisoned and 10 dismissed from service [12].

The question of human rights violations has assumed new dimensions both at regional and international levels. These are (a) the principles of "National Sovereignty" and its corollary of territorial integrity becoming problematic, (b) foreign aid being made dependant on a country's performance on human rights (c) incompatibility of the views between the US led West and a clear majority of 3rd World countries on human rights, (d)

universality, indivisibility and interdependence of human rights.

The Indian position that since violation of human rights does occur, these must be seen as aberration whose correction is best left to India's democratic procedures can not be given much credence. The Indian stand that concern over violations by foreign agencies and powers may be the beginning of an unacceptable kind and degree of foreign interference in India's internal affairs is misplaced. To quote the former Secretary General of United Nations Mr. Perez De Cuellar " the principle of non- interference with domestic jurisdiction of state cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity"[13].

Since human rights are universal in context, the obligation of their protection cannot be limited to the authority and actions of the state. It extends to all political and social authority or organisations and groups as well as all international organisations. The Indian government, can be expec ted to continue stressing the inviobility of national sov ereignty against all forms or reasons for interference, this need not to be the position of Kashmiris. The principle of universality of human rights is superior and prior to the principle of national sovereignty —— Nation - States are historically contingent. They are not eternal catagories and can not define the character of moral relations. Moreover, basic rights, including the right to self-determination, do not ultimately reside in states but in poeple individually and collectively. For a state to plausibily claim some standing as an important locus of the right to self-determination or national sovereignty, it would have to be a state "representative of the people".

But even for such democratic states the deeper principle holds Again there is considerable scope for making foreign aid dependent on a country's performance on human rights . There is no weight in the argument that a country which does not need foreign aid would be free to violate human rights. Foreign aid can be successfully utilised towards weakening the "Security apparatusses" of the repressive states. Moreover human rights are human rights in all countries and continents .People are born equal. The incompatibility of the views between the US- led west and a majority of 3rd World countries must be eliminated. In this connection it is apt to quote to Bangkok meeting of Asian countries "while Human Rights are universal in nature, they must be considered into context of a dynamic and evolving process of international norm —— setting, bearing in mind the signifi-

cance of national and regional particularities and various historical, cultural and religious backgrounds". The third World countries ought to dispel this interpretation of Human Rights.

While the world Human Rights conference in Vienna may not have achieved much in tangible terms, but the conference as a whole underlined universality, indivisiblity and interdependance of Human Rights. As Mr. Warren Christopher, the U.S Secretary of State told the opening session of the conference, "that each of us comes from different cultures absolves none of us from our obligation to comply with universal declaration of Human Rights. Torture, rape, racism, anti-semitism, arbitary detention, ethnic cleanising and politically motivated disappearances ... none of these is tolerated by any faith...or culture that respects humanity. Nor can they be justified by the demands of economic development or political expedienct[14] .

The question of Human Rights in Kashmir has also assumed significance for another reason. After returning from a five month long tour of the United States, Britain and Iran, Chairman of Jammu and Kashmir Peoples Conference Shri Abdul Gani Lone told reporters at his residence in Srinagar " Wherever I went, I was questioned about the Human Rights violations by the Militants". The new reports of the Asia Watch and physicians for Human Rights released in 1993, makes a departure from the earlier reports. The excesses from the militants have been covered and documented. The report describes "about 14 cases of summary execution, 3 cases of rape; 7 cases of kidnapping and 7 incidents of indiscriminate attacks by militant groups"[16]. However, the attrocities by security forces and those of militants need to be evaluated from seperate settings. While as militants can be tried under different laws of the state for what they do. There is no equal ensamble of laws for trying government forces.

New Dimensions Of Kashmir Uprising:

The uprising in Kashmir presents the first serious possibility of altering the political status quo in South Asia since the emergence of Bangla Desh in 1971. The Kashmir movement has assumed a new character on account of certain well meaning international developments, three of which deserve serious attention (1) manifestation of a new age of self-determination (2) unrest in the strategic Islamic crescent of conflict and (3) interventionist posture of USA.

In this age of self-determination, which has recently been manifested in Eastern Europe and erstwhile Soviet Union, Kashmiris felt that their case for a plebiscite is legally and morally strong. The`1990's period coincided with the desolution of empires in Afro-Asia and the cessation of the Soviet-American cold war with related Geo-Strategic attributes. Following the death of cold war Europe (including the Soviet-Union despite its Eurorisian geography) led the way to substantial re-adjustment in territory and sovereignty. Universal ideas of self-dignity, freedom and identity have become all the more important. In the earlier days of Kashmir uprising, Raymond Whiltakar noted the constant reference in conversations to Lithuania, as a potent symbol of the mood. There is thus in this movement a resounance of a larger global pattern. Prof. Akbar Ahmad notes "the post modernist spirit easily noted in Kashmir is a combination of cultural jouisance and nostalgia, of sehizo-phrenia of challenging Central authority and accepted traditional notions of modernity such as progress, economic development, the needs of the nation-states, central planning"[17] Over the last two decades some 800 million people in the 3rd World have moved from living under authoritarianism to living under Quasi-democratic and near democratic regimes. Kashmiris base their case for self-determination on the successive UN resolutions calling for a free and impartial plebiscite.

The ferment in Kashmir needs to be viewed in the context of the unrest that is evident in the strategic Islamic crescent of conflict which begins at Israel and goes through India. This chain of unrest includes the Intifada in Palestine, the struggle in Lebenon and Afghanistan: the stirrings in Azerbaijan and the uprising in Kashmir. The area between Arabian sea and Eurals is in ferment. Pakistan has been working for acquring "strategic depth" in the region by building a solid orbit of Islamic Powers. President Rafsanjani of Iran has already alluded to it. He said, "an alliance of the founder of Economic Cooperation Organisatin West Asia and muslim dominated countries of the erstwhile USSR have the potential of becoming a world power "[18]

Whether it may or may not be accepted Islamic resurgence is a fact of life throughout the Muslim World. Kashmir in the new scenerio has assumed the status of a Muslim cause for Muslim countries. It is the ascendence of the Islamic sentiment in Muslim countries which has made it difficult for their governments to be seen to oppose "Muslim causes". The twenty-first conclave of the organization of Islamic Conference of foreign ministers, held in Karachi (April 25-29, 1993) which described the happenings

in Kashmir has a legitimate struggle of self-determination and not Pakistan — sponsored terrorism explains the point. Pakistan was able to have a resolution passed unanimously "calling upon member states to cease forthwith the massive human rights violation of the Kashmiri people and to enable them to exercise their inali-enable right to self-determination as mandated by the relevant resolutions of the Security Council" The Afghanistan President Prof. Burhan-u-Din Rabbani during his recent visit to Pakistan asserted that supporting liberation struggle did not amount to supporting terrorist movements. Mr. Rabbani was replying to a question at a press conference on whether he considered Pakistan should be declared a terrorist state for the help it was extending to the Kashmiri militants, especially when no one declared the United States a terrorist state for its help to the Afghan rebels. He called for the implementation of the UN resolution on Kashmir.[19]

This is only the general context of revitalization of Islam. However, Islamic resurgenceas projected in the West and by the West is a misreading of this developement rightly described as exaggerated by John Mallot recently during his India tour. It is Islamic world's legitimate struggle for equal participation commensurate with its strength in the world affairs. Moreover, the real catalysts for Islamic activism are often as in any revolutionary situation more intimate local, immediate, particular injustice (both real and percieved) social dislocation, anomie, grevienees against authority, repression, the rise of new social forces — the elements of protest and rebellion are familiar.

American Interventionist Posture

The US Assistant Deputy Secretary of State, John Mallot's recent visit of India gave a new fillp to Kashmir ambroglio. His enunciation of the Kashmir issue upset a number of people for he stated bluntly that US considers all Kashmir on either side of the Line of Control as disputed territory. He came close to offering US good offices or even mediation (though in a somewhat guarded manner) and was critical that there had been no moment towards a settlement after Simla agreement. He said that the "US was prepared to push, prod and cajole both countries to move beyond rhetoric to detente."

Mrs. Robin Raphel, the new Assistant Deputy Secretary made the matter more warm by her recent statement regarding Kashmir wherein she challenged even the authenticity of the instrument of accession through which

Kashmir acceded to the Indian Union. President Bill Clinton in his address to UN General Assembly in New York on Sept. 27, 1993 included Kashmir among the major trouble spots in the world. The President said, " Thus as we marvel at this era's promise of new peace, we must also recognize that serious threats remain. Bloody ethnic, religious and civil wars rage from Angola to the caucasus to Kashmir". A critical appraisal of the actions, assumptions and postulates of Mr. Clinton's Government indicate the following:-

1/ An unfocussed view of India;
2/ Jettisoning the Simla Agreement;
3/ Needling India on NPT;
4/ An enlightened and sympathetic understanding of India's economic reforms;
5/ Low priority to India and its concerns [20].

Experts at a round table discussion organised recently by the Rajiv Gandhi Foundation, expressed the fear that the Washington accord on Palestine would embolden the US to arm-twist India and Pakistan into accepting an American solution to the Kashmir issue. It was pointed out that the US President's reference to Kashmir in his UN address was a clear indication of the US intentions to extend their total influence to the Indian sub-Continent and South Asia,[21].

It is interesting that during his visit to Washington Indian Foreign Secretary, J. N. Dixit stated that while US "good will", assistance and encouragement were under standable mediation is not necessary.

The new US mood is in contrast to its earlier disinclination towards the Kashmir crisis. The earlier US position can be summed up as:-

1/ The US accepts that Kashmir is a disputed territory and that Pakistan and India should resolve the issue between them as agreed in Simla in 1972;

2/ The US no longer supports a plebiscite in Kashmir (both these positions were enunciated by John Kelly during a congressional testimony in Washington on March 6, 1990;

3/ The US privately conveyed to Pakistan that it is opposed to raising

Kashmir issue in the UN Security Council or even raising it at international forums, such as OIC;

4/ The US even threatened during April-May 1990 to cut aid to Pakistan if Islamabad was found to be supporting Kashmiri militants, as such Pakistani assistance in the US view would amount to aiding and abetting the state terrorism.

The new US approach differs considerably and its contours are:-

1/ The 1972 Simla Agreement is outdated as it did not foresee the emergence of Kashmiris as a third party to the dispute;[23]

2/ The US considers whole of Kashmir as disputed territory on both sides of Line of Control;

3/ The US proposed Indian withdrawal from Siachen as a confidence building measure towards Indo- Pak ties;[24]

4/ American disaffection over the Human-Rights issue could spill over into other aspects of Indo-US relationship — trade, investment, aid, World Bank and IMF loans etc.

After proper evaluation of US Kashmir policy, one draws a conclusion that there is no single firm policy perspective with Washington. Instead conflicting signals are coming from different quarters. Some academic who have a substantial say in the formulation of the US policy on South Asia have started advocating that "The road to accession to non-proliferation treaty runs through Kashmir."[25]. The report of the Joint American-Russian study mission (1993) goes to the extent of saying "Russia and the USA could initiate in the UN Security Council resolution that would state their concern about the confrontation in Kashmir." The Indian Government must allow human right groups in Kashmir to do the human rights work. In a debate of House of Foreign affairs Committee, Senator, Dan-Burton demanded that India repeal five of her laws[26] — or risk losing US development aid.

On the other side of the fence a different American policy is in sight — in a forceful statement on the Kashmir dispute, a House sub-Committee has rejected the plebiscite option as one "over-taken by history". On the question of stopping aid to India for violating the human rights Senator,

Garry Ackerman stressed "we must continue to have a relationship with this very important power."

The record of US involvement in the Kashmir dispute from 1948 convinces a student of Kashmir affairs that Washington has always remained reluctant to pass moral judgement on the issue. This was equally true of erstwhile Soviet Union. The attitude of Super-Powers always remained tuned to their respective national interests. In fact, notwithstanding the occasional one step forward as part of the war game and habits of defensive vigilance in general they have been retreating from partisan involvement in third world conflicts. The process has now culminated in the dramatic repudiations of friends and allies. Even the pretentions of shared ideological or strategic interest have been jetteisoned, e.g. Vietnam,Ethiopia, Cuba, Somalia, Mozambique etc. The implications of this sea change in international politics is that the problem of Kashmir must now be seen as reverting to the crucibles of the domestic politics of India and Pakistan. The new concern of the US over human rights violations and making it part of its foreign policy is certainly different The collapse of the Soviet Union has brought about a change in US security interests and human rights are being adopted to a new political purpose.

Need For Indo-Pak Reconciliation:

Any attempt at Indo/Pak reconciliation is like wanting to treat two patients who's only disease is allergy to each other — opined G. Parthasarthy. Obviously the primary cause of hostility between the two countries is psychosomatic. The conflict in Kashmir has wider ramifications. Both countries must engage in rounds and rounds of talks on a continuous basis and at diferent levels because the relationship has reached to its nadir.

True, there are few chances for a hot war and one has reason to dismiss the psycho-pathology of men like Symor Hersh, who saw shadows of mushroom clouds overtaking the subcontinental skies in an Indo-Pak nuclear war in 1990. There can be no war between the two neighbours. Neither of whom has enough arms and spares to fight even a weaks high tech war, but the low intensity conflict is worst than war. It has no war fronts. It has no rules of the game. It is not time bound. It will not end unless statesmanship in both countries over-power councils of combat and turn to one another in search of peace or until both sides bleed each other to exhaustion.

Since the eruption of militancy, Indo-Pak relations have generally remained thorny and troublesome.Of course discussions and parleys were carried on at different levels and many confidence-building measures were taken. But progress on intractable problem of Kashmir remained nill. Each side accusing the other for non-cooperation and non-accomodation. The failure to come to a negotiated settlement over the Kashmir has opened the issue for interference of outside powers and states. It is a fact of Indo-Pak relations that failure to resolve Kashmir tangle at bilateral level has resulted in outside intervention. The best days for the resolution of the Kashmir problem were those when parleys were held at bilateral rather than at international level.

It is sad that ruling elite both in India and Pakistan failed to draw concrete lesson from their history and settle their problems at bilateral plane. But here the initiative must come from India being a big brother. The refusal to settle the issue at bilateral level has sufficiently internationalised the problem. e.g. at the 21st conclave of the OIC of Foreign Ministers held in Karachi (April 25-29) Pakistan was able to have a resolution passed unanimously "calling upon member states to take all necessary steps to persuade India to cease forthwith the massive human rights violations of the Kashmiri people and to enable them to exercise their inalinable right to self-determination as mandated by the relevant resolutions of the Security Council [27].

On the other side, India has found in Israel an allay to confront militancy in Kashmir. In his recent visit to India Israel Foreign Minister, Shimon Peres Suggested to L.K. Advani of B.J.P. demographic Indianisation as a means to settle the Kashmir problem.

Bhabani Sen Gupta[28] conceptualised the approach for the Indian policy makers in these words; "India must get out of Pakistani bind and behave like a major power ... we must realistically measure the power potential of our neighbours and not be carried away by their rhetoric, e.g. Pakistan makes a lot of noise about Kashmir but they do not have the potential to change the situation in Kashmir by war ... We must run our house properly so that no outsider can exploit our weaknesses by covert war like in Kashmir and Punjab ... internal cohesion in Pakistan is much weaker than India. In a prolonged war they may not be able to hold Sind, Blauchistan and NWFP with them. The best way to solve Kashmir issue is to go on letting to see how best to save the face of both the parties ... We should adopt the policy of shrugging off Pakistani polymics whenever they raise the Kashmir issue in

the international forums. The way we react does not behove a large country."

This approach was put into practice by former Prime Minister of India, Mr. Morarji Desai who went on to recall that: "We could have finished the Kashmir problem had I stayed in power" [29]

The second approach for Indo-Pak reconciliation can be people to people contact, to build public opinion in the two countries to compell their rulers to follow the path of reconciliation and enduring peace. The ideas of guiding relations among nations by "a conversation of cultures" and "a civilization of dialogue" have been well articulated since the end of world war IInd.[30] It projects the ideal of peace through mutual and equitable exchange of people, goods and services. This approach needs to be adopted by the people of India and Pakistan to break their deadlock.

Both India and Pakistan have probably reached a stage where they are capable of manufacturing and deploy fission weapons of awesome destructive power. They are estimated to have amassed huge stock piles of weapons —— grade material in the Indian case enough to make 30-60 bombs of Nagasaki type and in Pakistan enough for 6-10 bombs of the Hiroshima type. Both are engaged in development of missiles capable of reaching major targets in either country within 5-7 minutes, there is a growing likelihood that military decision makers will be simply unable to make reasoned judgements of each others intentions.

Broadly, there are two views on the matter. Ist there are those who believe that the root to friendlier Indo- Pak relations and to the elimination of nuclear rivalry between the two countries lies through Kashmir. Secondly, there are those who believe that a realistic acceptance of the two countries actual nuclear status furnishes the best basis for improved relations. Recently in an interview the former Pakistani President, Ghulam Ishaq Khan stated that the nuclear programme was a deterrent against outbreak of war with India and claimed that this capability had prevented New Delhi against an attack.[31] India simultaneously believes in a situation of threats to sovereignty and territorial integrity of India and continued preoccupation with several wars. India can not afford to abandon its nuclear programme.

Today a stage has been reached when both countries are virtually convinced that the other side possesses a certain number of nuclear weap-

ons. Both have been underpressure to sign NPT. In 1989 the UN conference at Kieve (USSR) on prevention of war the line taken by the Indian delegate was that both India and Pakistan should acquire nuclear capability [32] And as members of ancient civilization, they had enough maturity and sense not to use them. Even the three wars that they fought were fairly gentlemanly contests. Also that they were quite capable of establishing the necessary command and control systems for mutual contact and consultantions — even if initially these amounted to merely "bullock cart systems". This would promote stability in South Asia.

Countries like USA and UK who have no vested interest in exploiting Indo-Pak hostility, are unwilling to take initiative in this family dispute, due to the new global political scenario. Kashmir can quite easily be converted into a bridge rather than a battle ground between India and Pakistan. This is possible if Indians and Pakistanis concentrate on opportunities rather than on problems. They should realise that in the event of a 4th war, the developed world is likely to led the two countries on the pattern of Iran-Iraq War. This would seriously hamper their industrial and economic programmes and vitiate the political life in the two states. Jawahar Lal Nehru in early 60's conveyed to Lord Bertrand Russle that he was worried about "the danger of military mentality spreading in India and the power of the army increasing."

India and Pakistan should also emulate from the collapse of erstwhile Soviet Union and recession of USA. The reasons for Russians particularly are, they were spending a very high proportion of GNP on defence. A number of studies show that any country which spends more than 50% of GNP on defence is bound to creat problems for itself in the future. Indians and Pakistanis blinded by their hostility to each other have also added a special feather to their cap. They have adopted the most expensive system of manning their armed forces in the world. Before long, ov er 70% of their defence budgets will be committed to manpower related costs. Even the richest countries in the world can not afford this luxury.

The two tables shown below give the position of military potential of their countries that are relevent to South Asia. If there can be a reconciliation between India and Pakistan, they should be able reduce their defence expenditure to the much lower level. It is relevent to point out that one of the major inputs in the German and Japanese economic miracle was low very low percentage of GNP spent on defence over a sustained period of time

(less than 2% of the GNP).

PERCENTAGE OF POPULATION IN THE MILITARY AND MILITARY EXPENDITURE AS PERCDENTAGE OF GNP

Country	Population (in million)	Total Armed Forces (in Million)	Percentage Population in Military	Military Expenditure as % of GNP
China	1,072.00	3.2 (Reg.) 11.2 (Res.)	1.30	8.0 (1989 Approx.)
India	820.00	1.36(Reg.) 0.24(Res.)	0.21	3.8(1989)
Pakistan	102.85	0.486(Reg.) 0.668(Res.)	1.15	8.2(1989)
U.S.A.	245.32	2.163(Reg.) 3.490(Res.)	2.40	6.5 (1989)
U.S.S.R.	284.81	5.096(Reg.)	3.97	9.0 (1989 Aprox.)

MILITARY CAPABILITY EQUATION: SOUTH ASIA

Country	Divisions	Country	Divisions
Pakistan	20 Armoured/ Infantry	India	23 Armboured:Merchised Infantry
Bangladesh	5 Infantry		. 11 Mountain;
China (in and around	28 Various types out of a total of 153 Divisions		
Total	53		34

(Source: The Military Balance 1989-1990)

The Nation-States of India and Pakistan as the two soverign neighbours, exist for the welfare of the people of the two countries concerned. Their primary need is rapid economic development and progress. This task

can not be accomplished till Kashmir problem remains boiling. India alone has deployed almost 3,50,000 men at arms-army, paramilitary forces, police etc. to control and suppress the uprising in the Valley. Since the Valley has a population of 2.5 million, of which less than a million would be in the range of able-bodied youngmen, this would imply the highest percaptia ratio of troops per population in contemporary history, with a ratio of one Indian armed military man for roughly every 3-4 Kashmiri youth. Inside the state of Jammu & Kashmir situation is terrible. The state's budget deficit in 1992 touched a record figure of Rs.1270 crores. A sum of Rs.60 crores is being spent by the state government as cash assistance and free ration to the migrants in Jammu and Udhampur. About Rs.25 crores is also being incurred as ex-gratia relief for the relatives of those killed in militancy related violence. The state has also had to bear unforeseen expenditure worth Rs.4 crore as boarding, lodging expenses on government officers working in the Civil Secretariat during the summer when it functions in Srinagar. About Rs.70 crores are incurred as rent on the accomodation of security forces in various hotels. Such expenditure has shown a phenomenal rise. In the year 1989-90 the expenditure was Rs.2.30 crores and in 1993 is expected to reach to 160 crores.

If India and Pakistan freeze their military expenditure at its current level during the years 1990s, they would reap peace divident of 50 billion dollars during the current decade, enough to put all their children in schools, provide primary health care and clear drinking water to every one and to banish malnutrition by 2000.

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Section - A

KASHMIR: RE-READING ITS PAST IN ORDER TO PROFFER A PRACTICABLE SOLUTION

Kuldip Nayar

Nothing has bedevilled Indo-Pakistan relations more than the small, beautiful mountainous State of Jammu & Kashmir. For the dispute over this, His Highness Raja Jaswer Maharaja Dhiraj Sir Maharaja Hari Singh Bahadur is more to blame than anyone else. Had the Maharaja decided on Kashmir's accession before the middle of August 1947, when the Crown Representative, Lord Mountbatten, had the authority to see it through, there would have been no trouble. But after independence both India and Pakistan became claimants to the territory.

Mountbatten visited Srinagar on 18 June, a fortnight after announcing his plan for the transfer of power, to press the Maharaja to accede to either country after consulting his people. such consultation, however, was neither a part of nor a condition in the transfer of power procedure laid down by the British government. According to Campbell-Johnson, Mountbatten's Press Attache, in an interview with this writer, the Maharaja was to convey his decision to Mountbatten on the day of the latter's departure from Srinagar, but feigned illness.

The Maharaja latter explained that what had discouraged him from consulting the people was the earlier happenings in the North West Frontier Province (NWFP).. He was referring to the referendum that was ordered before the transfer of power to know whether the NWFP wanted to join India or Pakistan. The Muslim League described the choice before the peo-

ple as between the Quran and the Geeta. The Maharaja said that he did not want that to happen to his state.

But there was another reason why the Maharaja did not want to consult the people. For that, he had to negotiate with Sheikh Mohammad Abdullah who in 1931 was a mere school teacher but was now the leader of the popular National Conference, which waṣ like the Congress Part in India, and which had raised the slogan of "Quit Kashmir" against the Maharaja.

Indeed, Abdullah was a key factor. It was clear from the letter Jawaharlal Nehru, India's first Prime Minister, wrote to Sardar Patel, then Deputy Prime Minister, on 27 September 1947, almost a month before the State's accession to India: "Things must be done in a way so as to bring about the accession of Kashmir to the India Union as rapidly a possible with the cooperation of Sheikh Abdulllah.[1]

The Maharaja's preference was for independence, and failing that a merger with India. In the second alternative his fear was that with Nehru, at the helm of affairs, he would be reduced to the status of a mere figurehead and asked to hand over power to Abdullah.[2]

On the other hand, Pakistan was anathema to the Maharaja. First, as a Hindu, he was opposed to joining a Muslim country, and, secondly, he was afraid that once he did that, his loyal supporters, the Hindus and the Sikhs, would leave the state. Mohammad Ali Jinnah, Pakistan's founder, however, did offer a Sikkim-Like status in Pakistan.

With the idea of staying alone, the Maharaja tried to enter into standstill agreements with both Pakistan and India. The former agreed but the latter demanded the state's accession.

The Maharaja preferred to have "working arrangements" with the Indian Post and Telegraph Department even though the state's communication line went through Lahore. When the Commander-in-Chief of Kashmir Forces, Major General Scott, retired, the Maharaja asked (September 1947) New Delhi to loan the services of Lieutenant-Colonel Kashmira Singh Katoch. Again it was New Delhi that was approached for military equipment. And the appointment of Mehr Chand Mahajan, who was a judge of the Punjab High Court and who had served on the Boundary Commission as

India's representative, as the State's Prime Minister also indicated that the Maharaja tilted towards New Delhi. Patel thanked him for the appointment in a letter dated 2 October, 1947.

But there is nothing on record to prove that the Maharaja had a secret agreement with India. If there was one, Nehru, on hearing reports about Pakistan's proposed invasion on Kashmir, would not have written to Patel[3] three weeks before the Maharaja signed the Instrument of Accession that "once the State accedes to India it will become very difficult for Pakistan to invade it officially or unofficially without coming into conflict with the Indian Union. If, however, there is delay in this accession, the Pakistan will go ahead, without much fear of consequences, specially when the winter isolates Kashmir.

Nonetheless, Pakistan alleges that there was a secret agreement between the Maharaja and India and in support quotes the papers carried by Thakore Harnam Singh, the Maharaja's cousin, whose plane was forced to land at Lahore because of engine trouble. The papers reportedly contained a promise that the Indian Union, in return for Kashmir's accession, would build communications from Pathankot to Jammu and station troops at Gilgit in the north of Kashmir. This is not convincing proof because accession would have automatically meant not only the building of lines of communications and stationing troops but also many other thing.

Although India wanted the apple of Kashmir in its basket, there is no doubt that if the Maharaja had decided to join Pakistan, New Delhi would have accepted the situation.

The late Lord Mountbatten told me on 1 October 1971, at his sprawling mansion, Broadlands, in Southern England, near Southampton, that Patel with Pro-Hindu feelings, had agreed to let Kashmir go to Pakistan if the state so wished. " By sending its irregular troops into the state, Pakistan spoiled the whole thing", added Mountbatten. But he was worried that Nehru's Kashmir ancestry would lead him to unwise decisions. (Nehru is reported to have confessed to a British officer: "In the same way as Calais was written on Mary's heart, Kashmir is written on mine").

In an interview with me on 21 February 1971, Abdullah said: "Patel was against the accession of Kashmir to India. He thought that since it was a Muslim-majority area it should go to Pakistan. When Nehru was deciding

about the accession of the State and by that time the Maharaja's request had come, Patel reportedly said: "We should not get mixed up with Kashmir; we already have too much". It was Mountbatten who forced Nehru to get the instrument of accession first before sending troops because he wanted to do things in a legal way. Mountbatten told Nehru that without that legal accession he would not like British officers to serve in the Indian Army.

Article of Faith

But Pakistan could not wait. Kashmir had always been part of the Pakistan concept — the letter "K" in its name stood for Kashmir. As the Pakistan Minister for Kashmir Affairs said in 1951: "Kashmir is an article of faith with Pakistan and not merely a piece of land or source of rivers".

Kashmir had a preponderant population of Muslims, and the Muslim-majority area, geographically adjacent to Pakistan, should have automatically become its part: it was claimed Karachi's other argument for accession was that the rivers flowing to Pakistan's Punjab originated from Kashmir and that the state's access to the outside world was either through Pakistan's Sialkot town, which linked Jammu through a tenuous road, or through Rawalpindi and Murree which were also parts of Pakistan.

Jinnah had also vainly tried to win over Abdullah, when the two met in Lahore just before partition. In the 1971 interview with me, Abdullah recalled his talks with Jinnah thus: "I told him that I was not opposed to his idea of Pakistan but it would not help in the situation. Muslims were flung all over India and they would face more difficulties if certain portions were taken away from the country and declared independent. If they (Muslims) were not safe in the entirety of India how would they be safe in a smaller portion?"

When Pakistan made no progress either through talks or pressure which it applied on the Maharaja by slowing down the supply of necessities, though this was protected under the Standstill Agreement, it implemented in September a scheme prepared when Gracy, then Pakistan's C-in-C, was away in London on leave.

Briefly, it was to send into Kashmir tribesmen followed by Pakistan's regular and irregular forces. Shiv Saran Lal[4] who was at that time Deputy Commissioner, Dera Ismail Khan NWFP, reported to New Delhi that Paki-

stan had sent "armed tribal people (half a million) to the Pakistan-Kashmir border and the Pakistan Government provided transport in civilian and military lorries". India's information from its intelligence sources in September 1947 was that "Muslim League units in Punjab and the NWFP are making preparation to enter Kashmir in considerable number" and "to take some big action as soon as Kashmir is more or less isolated because of the coming winter".

Kashmir Accession

It was on the 24 October evening that India received definite confirmation about the tribesmen entering Kashmir. Till then India had kept aloof military. This was obvious from a letter which Maharaja wrote to Patel on 23 October when the raiders had penetrated deep into the State: "The help that you kindly promised has not arrived and we are surrounded on all sides". New Delhi was still caught on the horns of a legalistic dilemma but Mahajan wrote in the same letter: "You will agree with me it is hardly the time to think of any constitutional issues.

How bad was the situation? Or, rather, how far would the Maharaja, who had earlier toyed with the idea of staying alone, go in terms of accession and sharing power with Abdullah? These were the questions that tormented New Delhi.

Records of the Indian Defence Committee's meeting in October, 1947 show that Mountbatten who was in the chair, favoured Kashmir's Temporary accession to India on the condition That The People's Wishes would be ascertained after the restoration of Law and order. Nehru and Patel found nothing to prevent India from sending assistance even in the absence of accession.They argued at the defence Committee's meeting that India was duty-bound to render assistance to Kashmir because it was the successor to the British in India — in the same way as the British were successor to the Mughals — and hence exercised suzerainty over the entire subcontinent excluding those parts which had acceded to Pakistan.

It was decided to send V.P. Menon, then Secretary to the State Ministry, to Srinagar to assess the situation and meet the Maharaja. At that time, the raiders were only 35 miles from Srinagar. On his return (Patel was present at the airport to receive him) Menon reported that if anything was to be done it should be done immediately because Srinagar might fall to the

raiders in two or three days Maharajawho came to Delhi with Menon reported that the Maharaja was prepared to hand Kashmir to the government of India straightaway and retire to Jammu. "Give army" take accession ... otherwise I will go and negotiate terms with Mr. Jinnah", he added.[5]

Three British Army Commanders in India pointed out that any operation would mean taking considerable military risks. The discussions reached a stage when Indian ministers said that the British commanders could withdraw if they were opposed to the operation. Mountbatten intervened to save the situation, and from then onwards, he gave all military advice for the operation.

On Mountbatten's insistence on accession first, Menon flew to Jammu where the Maharaja and his family had moved to escape the raiders. The Instrument of Accession was signed by him at Jammu. Abdullah, who had been heading an emergency administration from the end of September, ratified it subsequently.

In a letter accompanying the accession deed, the Maharaja told mountbatten: "I wanted to take time to decide which Dominion I should accede to, or whether it is not in the best interest of both the Dominions and my state to stand independent, of course with friendly and cordial relations with both..... With the conditions obtaining at present in my State and the great emergency of the situation as it exists I have no option but to ask for help from the Indian Dominion.[6]

The first batch of Indian forces — a Sikh Regiment Unit from Gurgaon — flew to Srinagar on 27 October, 1947. On that day, Mountbatten also wrote to the Maharaja that "as soon as law and order has been restored in Kashmir and her soil cleared of the invaders the question of the State's accession should be settled by a reference to the people".

On 2 November, Nehru repeated Mountbatten's assurance in a broadcast: "We have decided that the fate of Kashmir is ultimately to be decided by the people". While talking to me, Mountbatten took the credit for making Nehru " agree to plebiscite". During talks with me in May 1972, Dwarka Parasad Misra, who was Madhya Pradesh's Home Minister at the time of Kashmir's accession, quoted Patel as having said that the undertaking to hold a plebiscite was never discussed in the Cabinet.

Mountbatten told me that Nehru agreed to a plebiscite on one condition: peaceful conditions must prevail first. "Panditji had no doubt that India would win the plebiscite once Sheikh Abdullah was at the helm of affairs", Mountbatten said. India would have won the plebiscite at that time: why it did not hold it then is beyond my understanding.

More or less the same observation was made by Chester Bowles, former American Ambassador to India, before he left Delhi in 1969. He told me: "You would have won hands down if you had held the plebiscite even in the early fifties". Similar was Abdullah's assessment: "There is no doubt in my mind that if there was a plebiscite any time from 1948 to 1950, India would have won".

Plebiscite Proposals

Once India accepted the accession of Kashmir, Nehru sent a cable to Pakistan informing Liaquat Ali Khan, then Pakistan Prime Minister, about it, and also saying that India had decided to fly troops to the state. A day earlier, the British government had been informed that "helping Kashmir is an obligation in the national interest of India".

Pakistan was infuriated. It alleged that the accession was effected through "fraud and violence and as such cannot be recognised". Jinnah ordered Gracey, the Acting Commander-in- Chief of the Pakistan Army, to march into Kashmir. Gracey stalled and in London contacted Auchinleck, the C-in-C, who told Jinnah to cancel his orders, arguing that such a step would mean an Indo-Pakistan war and withdrawal of all British officers serving in the Pakistan and Indian forces.

On Auchinleck's suggestion, Jinnah invited Indian leaders to Lahore for talks on Kashmir. Nehru could not go because of illness and Patel refused because he likened the visit to Chamberlain's Munich trip. "For the Prime Minister to go crawling to Jinnah when we were the stronger side will never be forgiven by the people of India", he added. Mountbatten was requested to go.

Before leaving for Lahore, Mountbatten met Mahatma Gandhi, who had made it clear where his sympathies lay by declaring at a prayer meeting that he would not shed a tear if the Indian forces, like the Spartans, were wiped out in the defence of Kashmir. All that he knew was that it was "right"

on the part of Union government to rush troops to Srinagar.

Jinnah argued at Lahore that the accession was not bona fide since it was brought about by violence, but Mountbatten's contention was that the violence here was that of the tribesmen for which Pakistan, not India, was responsible. Ismay, who had accompanied Mountbatten to Lahore, suggested that the fighting should end. Jinnah said he was in favour of that provided both sides withdrew from Kashmir at once. On Mountbatten asking how the tribesmen were to be called off, Jinnah said he would guarantee their withdrawal within 24 hours. To this Mountbatten reacted with the comment that he was indeed surprised at the degree of control Jinnah appeared to exercise over the raiders.

Jinnah was opposed to a plebiscite but on different grounds. He told Mountbatten that "with the troops of the Indian Dominion in military occupation of Kashmir and with the National Conference under Sheikh Abdullah in power, such propaganda and pressure would be brought to bear that the average Muslim would never have the courage to vote for Pakistan".

Mountbatten suggested to Jinnah a plebiscite under the UN with an advance complement of observers and organizers preparing the "necessary atmosphere". Jinnah instead suggested that he and Mountbatten were "the only two who could organize the plebiscite". On this, Mountbatten's comment was that he had no authority to do so: Ismay added that Attlee would not give his consent.

The record of the talks as Mountbatten gave Nehru in the form of a report, says that at the end of the meeting Jinnah was quite pessimistic and said "India was out to throttle and choke the Dominion of Pakistan at birth". At that time, Auchinleck in a cable sent a similar assessment to London: 'I have no hesitation in affirming that the present Indian Cabinet are implacably determined to do all in their power to prevent the establishment of the Dominion of Pakistan on a firm basis".

The fighting in Kashmir was still on when Liaquat Ali Khan, Pakistan's Prime Minister, came to Delhi for a meeting of the Joint Defence Council (26 November). He and Nehru agreed that Pakistan should persuade the tribesmen to cease fighting and quit the state as quickly as possible, that India should withdraw the bulk of its forces, and that the UN should be asked to send a commission to hold plebiscite.

Nehru informed the Maharaja on 1 December that the proposals discussed with Liaquat involved "a plebiscite under the UN". Realizing that the Maharaja did not like the idea of a plebiscite, Nehru said: "We cannot do away with it without harming our cause all over the world. We are bound down to that proposal provided, of course, there is a settlement". However, within a few days of Liaquat's departure from Delhi, Nehru informed him that "the tentatively agreed proposals" were off because even after the understanding, Pakistan had "encouraged more raiders" to enter Kashmir. (Indian Intelligence had intercepted a Pakistani telephone message which indicated that it was moving up regular troops in special trains).

Eleven days after this meeting with Liquat by Nehru (9 December) the Indian Cabinet decided to appeal to the UN. A reference was made on 1 January,1948 under the Chartter's Article 35 (Chapter VI) which enables any member to draw the attention of the Security Council or the General Assembly to any dispute or situation which might lead to international friction or give rise to a dispute. Nehru had earlier rejected a suggestion that the matter be referred under Chapter VII which deals only with complaints of aggression followed by sanctions of the Security Council.

New Delhi stated in its complaint that both the ruler and the people had acceded to India but to keep the matter completely above board, the Government of India undertook to hold a plebiscite or referendum to ascertain the wishes of the people after law and order was established in the state.

Security Council Debate

Gandhi was unhappy over the reference of the dispute to the UN. It would only get them "monkey justice", he warned. Could not Pakistan and India representatives sit down and settle the problem?

Pakistan's reply a fortnight later was contained in three documents; the first denied assistance to the raiders and the second and the third made a counter-complaint against India --- alleging annexation of the state of Junagarh, genocide of Muslims, and an attempt to liquidate the state of Pakistan. Karachi proposed that the UN arrange a cease fire, effect withdrawal of all outside forces from Kashmir, ensure the rehabilitation of the refugees who had fled the state, establish an impartial administration and then hold a plebiscite on whether the people wanted to join Pakistan or

India.

The debate in the Security Council did not go the way India thought it would. There was no immediate acceptance of its basic complaint that Pakistan had created a situation which might lead to international friction. In fact, New Delhi found most members of the Council on Pakistan's side.

Nehru told Mountbatten that "he was convinced that the UN was being completely run by Americans and that the American representative had made no bones of his sympathy for the Pakistan case". It was evident that the attitude of the USA and Britain was related to their belated efforts to rehabilitate themselves in the Arab world by siding with Muslims Pakistan after advocating partition in Pakistan.

The USSR and the Ukraine remained neutral. Moscow had not yet decided whether or not Indian leaders had stopped being "the running dogs of imperialism" — a phrase which Stalin had once used for Nehru.

In the Security Council debate, Pakistan had the better of India. The former's representative, Muhammad Zafrullah Khan, who later became Chief Justice of the International Court at the Hague, had an edge in oration as well as presentation over New Delhi's placid representative, Gopalaswamy Ayyangar. India concentrated on the narrow subject of the tribal invasion which it was sure, when proved, would make the Council ensure Pakistan for helping the raiders. But Pakistan made the Kashmir problem part of its charge-sheet against India to argue that the latter was out to nip the state in the bud.

In the Security Council debate, Pakistan's representative, Muhammad Zafrullah Khan's attack paid dividends. The emphasis shifted to plebiscite instead of aggression. In fact, the Security Council changed the title of the complaint from "The Jammu and Kashmir question" to "the Indo-Pakistan question". Sending Abdullah to the Security Council as India did, proved to be a wrong strategy because he generated more heat than light.

The Council passed its first resolution on 17 January 1948, calling on both sides to help ease tension. Three days later, the Council passed another resolution to create a United Nations Commission for India and Pakistan (UNCIP) to exercise a mediatory role and to investigate facts, including the charges made by Zafrullah. India was so disgusted at the proposal to ap-

point the Commission that it did not care to raise any objections in the broadening of the scope of the Commission's activities — and for this it paid heavily later.

UN Commission

By the time the UNCIP reached the subcontinent in July 1948, the Council, through its resolution on 21 April, had raised the Commission's strength to five and had instructed it to use its mediatory role to restore order and to hold a plebiscite in Kashmir in cooperation with both governments.

India rejected the resolution on the ground that it established parity between the aggressor and the victim and that it raised doubts about the legality of the accession, which was complete. Pakistan too did not accept the resolution since it did not guarantee a complete withdrawal of the Indian Army from Kashmir, nor did it seek the replacement of Abdullah's government by an impartial administrator.

However, Pakistan did admit before the Commission (6 July 1948) that three of its brigades were in Kashmir. The Pakistan army, it was argued, was ordered to move to stop the Indian army before it could harm Pakistan by controlling Kashmir's rivers.

The Commission's first resolution (13 August, 1948) was somewhat favourable to India because by then the presence of Pakistani troops had been proved beyond doubt.The Commission's members had come round to the view that Pakistan army regulars had joined the battle as early as February. Pakistan was asked to withdraw its troops first, along with the tribesmen and Pakistani nationals not normally resident in Kashmir. India's withdrawal was to follow, subject to the retention of limited forces necessary for the maintenance of law and order.

In the course of negotiations with the commission, Nehru obtained three safeguards: (1) the administration of the territories by "local authorities" would not mean loss of sovereignty for the Kashmir government over these territories, nor recognition of the government of Azad Kashmir (the area held by Pakistan); (2) India would retain its forces not only to maintain law and order but also to defend the state against external aggression; (3) Pakistan, having no locus standi, would play no role in holding the plebi-

scite.

Pakistan did not accept the Commission's resolution of assurances. However, Karachi pressed for the recognition of the Azad Kashmir government as a de facto authority and, therefore, a party to the dispute.

The Commission utilized the presence of Indian and Pakistan delegations to the UN General Assembly in Paris to present on 11 December 1948 fresh proposals, elaborating the principles governing the plebiscite. These subsequently formed part of the Commission's resolution on 5 January 1948. The question of accession to India or Pakistan was to be decided by a free and impartial plebiscite, which was dependent on having a ceasefire; after the ceasefire, the Commission, in consultation with India, would determine the final "disposal" of Indian and state armed forces.[7]

The two governments came to accept a ceasefire and UN observers to supervise it — from January 1949, exactly a year after India's complaint to the UN, New Delhi stuck to its offer to hold a plebiscite until 1953.

On 30 August, 1949 the Commission suggested that the question whether Pakistan had withdrawn its armed forces and carried out its obligations under the UNCIP resolutions should be referred to arbitration. Later, both President Truman and Prime Minister Attlee backed this idea in personal letters to Nehru who said that the procedure was not only novel but unjustified.

The Security Council's President, Mc Naughton, proposed that India and Pakistani forces should be withdrawn and that India and Pakistani forces should be withdrawn and that both the Azad Kashmir troops and the state forces were to be "reduced". New Delhi rejected what it said was "legitimization" of the concept of Azad Kashmir. Karachi accepted the proposals with a few amendments. However, India's reaction did not deter the Security Council from adopting Mc Naughton's proposal in a resolution dated 14 March, 1950.

From the Commission, which had itself suggested its dissolution, a single mediator, Owen Dixon, took over. He made two proposals: (1) to hold the plebiscite by sections or areas: (2) to partition the state straight away, assigning areas according to the known wishes of the inhabitants and holding a plebiscite in the Kashmir Valley.

The second suggestion was similar in some parts to the one which Karan Singh proposed in 1964 when he was still the State's Sadr-e-Riyasat. He was in favour of dividing Jammu and Kashmir, so that the former could be merged with India at once. The government of India reprimanded him and he gave up the proposal.

India was in favour of Dixon's proposal to hold a plebiscite only in the valley of Kashmir to which addition of Muzaffarabad district, part of Azad Kashmir, was suggested so as to have a natural geographical feature provided by the river Kishanganga and its watershed in the north. Patel suggested to Dixon that India be given Jammu and Ladakh straightaway and that the plebiscite be confined to the valley.[8]

However, the proposal did not fructify because Pakistan demanded control of Kashmir straightaway. Later India also wriggled out of the plan for a limited plebiscite.

The Security Council at the instance of Pakistan, resolved (30 March, 1951) that any decision by the State Constituent Assembly about the future of Kashmir would not be binding. Even then Karachi was not mollified, and it began getting ready for war, constructing underground shelters, preparing people for air raids, etc. The visit of the Grand Mufti of Jerusalem to Azad Kashmir, preceded by a pro-Pakistan resolution on Kashmir by the World Muslim Conference in Karachi in February 1951 only heightened feelings against India.

The UN continued with its own "Operation Kashmir". Between 1951 and 1955, there were five UN reports — all by Frank P. Graham, who succeeded Dixon as UN Representative. He first suggested direct talks between India and Pakistan. When this proposal made no headway, he got down to fixing the quantum of forces to be retained by the two sides after demilitarization of the state for holding a plebiscite. What pleased New Delhi was his recommendation that India could retain a large number of troops in the state while Pakistan could have only "civil armed forces" in Azad Kashmir. Graham's reports were acceptable to India and Pakistan only in parts. Therefore, he came to the conclusion — that the way out was bilateral talks between India and Pakistan.

The point that the Indian Prime Minister was making was that with American arms increasing Pakistan's fighting potential it would be ridicu-

lous to talk of the "demilitarization" of Kashmir as the first step towards holding a plebiscite. Nehru even wrote to Mohammad Ali: "In fact, the question before us becomes one of militarization and not of demilitarization". This could be regarded as the beginning of New Delhi's subsequent stand that military pacts by Pakistan had negated the very basis on which India agreed to a plebiscite. India stuck to its offer to hold a plebiscite until 1953 when Pakistan joined a Middle East defence pact.

There was yet another reason. New Delhi realized that a plebiscite would not remain a choice between Indian and Pakistan but transcend the boundaries and become the question between the Hindus and the Muslims, the Gita and The Quran. Having a larger Muslim population than Pakistan, India could not afford to take such risk with its secular polity. That is still New Delhi's reasoning. If 4 million Muslims in Kashmir were to opt for independence or integration with Pakistan, the 110 million Muslims in the rest of India would be definitely adversely affected.

Developments since 1960

The first serious effort to sort out the Kashmir tangle was made in December 1962, two months after India's defeat at the hands of China. Both the USA and the UK which stood by New Delhi during the war, influenced Nehru to initiate talks with Ayub Khan, its martial law administrator. The two countries held six rounds of talks spread over six weeks but could not reach an agreement.

The specific points which the two sides covered were: (a) a proposal to handover Poonch town and a few other places (about 3000 square miles) to Pakistan; and (b) Pakistan's suggestion of a boundary which would give India Jammu plus a small tract of land in Kashmir. Pakistan renewed the demand for a plebiscite under the aegis of the UN. India warned that even a partial plebiscite would restore the fires of Hindu-Muslim differences.

Pakistan applied a novel method in 1965 of sending infiltrators across the ceasefire line and hoped for a favourable response from Muslims in Kashmir.Rawalpindi's calculation that there would be uprisings in Kashmir failed.

In fact, it was Kashmiri-Mohammad Din from Gulmarg and Wazir Mohammad from Mendhar, Jammu — who were the first to tell the Kash-

mir police about the infiltrations. Pakistan's plans to distribute arms and ammunition to the local population and to organize a revolt remained on paper. Ayub explained that by supporting the people of Kashmir to exercise their right of self-determination, Pakistan was doing no m,ore than what it had always pledged.

There was a 23-day war between the two countries and it was more or less a draw, although Pakistan lost a substantial portion of the arms it had received from the USA. After the ceasefire the Soviet Union took the initiative and brought Indian prime minister Lal Bahadur Shastri and Ayub together at Tashkant, where the peace declaration was signed. This was the first time that Pakistan affirmed in writing "not to resort to force" and to settle Kashmir through peaceful negotiations.

The same peaceful approach was underlined in the Simla Agreement in 1972 between Indira Gandhi and Zulfikar Ali Bhutto, the prime minister of India and Pakistan respectively. Islamabad was in no position to bargain at that time because in the 1971 war with India it had lost its eastern wing (what is now the independent country of Bangladesh) and a large tract of land in West Pakistan. New Delhi also had with it 90000 Pakistan soldiers being prisoners of war.

Under the Simla Agreement, the two countries resolved to settle their differences by "peaceful means" and promised not to "unilaterally alter the situation". The two also undertook to "prevent organisation assistance or encouragement of any act detrimental to the maintenance of peaceful and harmonious relations between the two".

On Kashmir, the specific affirmation was that "the line of control resulting from the ceasefire of 17 December 1971, shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line".

There has been no conflict between India and Pakistan since the Simla Agreement. But there has been no settlement either. New Delhi's belief is that Kashmir is a symptom, not a disease and the disease is Pakistan"s hate-India policy. Even if Kashmir were presented to Pakistan on a platter, as Nehru said, then it would think of some other issue to keep its hatred

alive, for only in that has it found its ethos.

Pakistan, on the other hand, now argues more vigorously than before, that Kashmir is the core of its problems with India. Once it is out of the way, the relationship will normalize. It reiterates the demand for a plebiscite and it has even threatened to go back to the UN. It may do so one day but all major powers in the world are nearly united in their thinking that the solution will have to be found by India and Pakistan themselves.

Lately, particularly with the recent disturbances in Kashmir, another party, the Kashmiri's, have come prominently into the picture. Their militancy on the one hand, and New Delhi's ruthless suppression on the other, have attracted the world's attention. This has introduced a new option, "independence", undoing accession to India and not joining Pakistan.

The partly rigged state elections in Kashmir in 1987 squeezed out the Kashmiris, faith in the ballot box and they readily accepted the bullet, which Islamabad has been vainly offering earlier. The joint front between the national parties in the state and the Congress(I) party in New Delhi took away even the fiction of autonomy which Sheikh Abdullah, father of Farooq Abdullah, the former state chief minister, had been claiming in the past. The Kashmiri youth, so far confused and hesitant, went across the border in thousands and brought arms from Pakistan to fight India. This gave an opportunity to Islamabad to stay in touch with the militants and guide their resistance.

In the past two years 4000 people have died at the hands of security forces and the militants. No doubt the militancy has decreased and the running battles between the security forces and the Kashmiri youth are no more witnessed. However, the Kashmir" alienation is nearly total.

"Any solution of Kashmir has to be acceptable to all the three — India, Pakistan and Kashmir", one top leader of the Jammu and Kashmir Liberation Front, an organization propelling the demand for independence, told me in a recent interview in Surajar. He had no specific formula in mind, but he favoured a discussion among the three. Is there a solution to which India, Pakistan and the Kashmiri's will agree?

I think something like what I discussed — a Trieste-type proposal — with Zulfikar Ali Bhutoo at Islamabad before the Simla conference may

produce a solution. I asked Bhutoo if he would accept a Trieste-type solution for Kashmir. The Trieste Agreement (20 October 1954) provided for the partitioning of the Free Territory of "Trieste" between Italy and Yugosolavia along the existing demarcation whilst providing facilities or free travel between the two sides. Bhutoo said, "I was thinking partly of Trieste". He refused to say more, except, "I have given you a peep into my mind. If I say too much on it, or if we go too much into it, here also we have our Jana Sanghis" meaning extremists).

My suggestion is that the present line of control between India and Pakistan should become an international border; both countries should retain the part of Jammu and Kashmir that they have under their possession at present. But they should soften the present line of control, which will be the international border, in the valley so as to enable the Kashmir population to go forth, to trade and even take joint steps to set up industry, and attract tourists.

The bona fide Kashmiris on both sides will have identity cards so that they can travel easily. But the Indians wanting to travel to the Pakistani side of Kashmir will have a visa from Islamabad just as the Pakistanis wanted to travel to the Indian side of Kashmir from New Delhi.

This proposal may also satisfy the Kashmiri youth because this will enable them to enjoy local autonomy. As far as India and Pakistan are concerned, they will be able to integrate permanently the territory (still called Jammu and Kashmir) on their side, keeping the valley autonomous.

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NOTES AND REFERENCE

1. Sardar Patel's correspondence, Vol. 1.

2. Mehr Chand Mahajan, who became Jammu and Kashmir's Prime Minister in October 1947, has said in his book, Looking Back, that the Maharaja hoped to be the ruler of independent Kashmir.

3. Sardar Patel's correspondence, Vol.. 1.

4. Shiv Saran Lal was on leave in India in September-October 1947, and gave the information, the record of which is available in a note dated 5 October 1947 in the Prime Minister's Secretariat.

5. Mehr Chand Mahajan, Looking Back.

6. Kuldip Nayar, Distant Neighbours.

7. Ibid.

8. Ibid.

9. The proposal was first mooted in 1960 by Rajeshwar Dayal then Indian High Commissioner.

Courtesy: The The Round Table (1992), 323

FACTS ABOUT KASHMIR

Dr. Ghulam Nabi Fai

Location and size

Kashmir is situated in extreme north of the India-Pakistan subcontinent and at the southern point of central Asia.with an area of 86,000 square miles and a population currently estimated at around 12 million, it is surrounded by four countries: China, Afghanistan, Pakistan and India, with the narrow Wakhan strip (in Afghanistan) separating it from the Soviet Union. Its rivers flow into Pakistan; its traditional highways led there; it is also with Pakistan that it shares the larger part of its border. In its middle is the Vale of Kashmir, famed for its scenic beauty. Compared to the existing 160 sovereign states in the world taken individually. Kashmir is larger than 68 and more populous than 90.

Present Status

The cease-fire line between the forces of India and Pakistan has currently divided Kashmir into two parts. One is under India occupation; this comprises 63% of the whole territory and includes the Vale; it has a population of around 7.5 million. The other, with around 3.5 million people, includes Azad(free) Kashmir, which is under indirect Pakistani control, and the northern region of Gilgit and Baltistan, which is directly administrated by Pakistan. About 1.5 million Kashmiri are refugees in Pakistan; some 300,000 live in Britain and about 100,000 are scattered around the world. The present arbitrary bifurcation of Kashmir has divided thousands of Kashmiri families.

Modern History

A society with a settled historical continuity of its own, Kashmir has been independent over long periods of time spanning centuries. During the colonial era, however, it was one of the principalities called States which were ruled by hereditary feudal chiefs (Maharajas or Nawabs) and granted internal autonomy by Britain as the paramount power. The Maharaja of Jammu and Kashmir (the official name given to the State) was the descendent of a free-booter who obtained the territory from the British East India Company in return for the payment of sum of money in 1846. The resentment of the people of Kashmir at having been treated as chattel by this sale-deed remained in freedom movement in 1931. It led to the "Quit Kashmir" campaign against the Maharaja in 1946 and to the Azad Kashmir movement which gained momentum a year later. The first armed encounter between the Maharaja's troops and insurgent forces occurred in August, 1947.

At this time, Britain was liquidating its empire in the subcontinent. The tripartite agreement of Britain, the National Congress (representing Hindus) and the Muslim League (representing Muslim) partitioned British India into two independent countries: one comprising Hindu-majority areas which retained the name "India" and the other including Muslim-majority areas which named itself Pakistan. As this settlement also meant the end of British paramountcy over the autonomous principalities called States, these were supposed either to merge with one of the two countries in accordance with the wishes of the people and the principle of partition (Hindu-majority States with India and Muslim-majority States with Pakistan) or elect to remain independent. Kashmir was a predominantly Muslim-majority States; besides, it was far more contiguous with Pakistan than with India. It was, therefore, expected either to accede to Pakistan or to remain independent. But the Maharaja was Hindu and he rejected both these options.

Faced with the insurgency of his people, which had been joined by a few hundred civilian volunteers from Pakistan, he fled the capital, Srinagar. On 25 October,1947, and arranged that India send its army to help him crush the rebellion. India, coveting the territory, set one condition on its armed intervention. The condition was that Maharaja must sign an Instrument of Accession to India. He promptly did so on 26 October and India flew the troops into the State the next day.

Thus as a war-lord in 1846 had acquired Kashmir as his fief through a sale-deed, so his descendent in 1947 transferred Kashmir as a property to India. Though a hundred and one years apart, the two acts were identically colonialist in nature, provoking the same popular out-rage. One in Colonial era and required no legitimacy; the second occurred in the post-colonial age after the coming into force of the United Nations Charter.

Accession Provisional

Though long planned and swiftly executed, the annexation of Kashmir could not be a simple affair for India. First, there was the incongruity of the act which clearly violated the principle of partition. Secondly, while accepting the instrument of accession from the Maharaja, India did not wish to jeopardize its chances of annexing two other principalities or States (Hyderabad and Junagarh) which, in contrast with Kashmir, had Hindu majorities but Muslim rulers. It had a stake, therefore, in ostensibly preserving the principle that in cases of conflict between the ruler's and the people's wishes, the latter must prevail. Under these compulsions, India had to attach a condition to the transaction with the Maharaja; the accession was made subject to "reference to the people". On India's own showing, therefore, the accession had a provisional character; one official representative of India at the United Nations termed it "tentative".

Kashmir Question at the United Nations

Between October and December, 1947, the Azad Kashmir forces successfully resisted India's armed intervention and liberated one-third of the State. Realizing that it could not quell the resistance, India brought the issue to the United Nations in January, 1948. As the rebel forces had been undoubtedly joined by volunteers from Pakistan, India charged Pakistan with having sent "armed raiders" into the State and urged that the United Nations called upon Pakistan to withdraw them. This was coupled with the assurance that, once the "raiders" were withdrawn, India would enable a plebiscite being held under impartial auspices to decide Kashmir's future status. In reply, Pakistan charged India with having manoeuvred the Maharaja's accession through "fraud and Violence" and with collusion with a "discredited" ruler in the repression on his people. Pakistan's counter complaint was also coupled with the proposal of a plebiscite under the supervision and control of the United Nations to settle the dispute.

The Security Council discussed the question exhaustively from January to April, 1948. It came to the conclusion that it would be impossible to determine responsibility for the fighting and futile to blame either side. Since both parties desired that the question of accession should be decided through an impartial plebiscite, the Council developed proposals based on the common ground between them. These were embodied in the resolution of 21 April, 1948 envisaging a cease-fire, the withdrawal of all outside forces from the State and a plebiscite under the control of an administrator who would be nominated by the Secretary General. For negotiating the details of the plan, the Council appointed a five Member Commission (including the United States which proceeded to the subcontinent in July).

The International Agreement

The United Nations Commission for India and Pakistan (UNCIP) worked out the Concrete terms of settlement in close and continuous Consultations with both sides. These were crystallized in two resolutions adopted on 13 August, 1948 and 5 January,1949. As both governments formally signified their acceptance of the Commission's proposals, they constituted an international agreement as binding as a treaty. A cease-fire was immediately enforced. The Commission then started negotiations to draw up a plan for the withdrawal of Indian and Pakistani armies from the State in a manner and sequence that would not cause disadvantage to either side or imperil the freedom of the plebiscite. Meanwhile, a distinguished American, Admiral Chester Nimitz, was designated as the Plebiscite Administrator.

Cause of Stalement

Progress towards a solution was, however, blocked by India's refusal to accept that the withdrawal of forces on the two sides should be balanced and synchronized. When President Truman and Prime Minister Attlee (of Britain) appealed that the points at issue be submitted to arbitration by the Plebiscite Administrator designate and India turned down the appeal, the Commission terminated its mediatory mission. From 1950 to 1957, a succession of Presidents of the Security Council or United Nations representatives General Mac Naughton (Canada), Owen Dixon (Australia); Frank Graham (United States) and Gunnar Jarring (Sweden) made intense efforts to secure India's agreement to stage-by-stage demilitarization of the State so that a free plebiscite could be held. They all failed, as did informal mediators like the Prime Ministers of the Common Wealth Countries.

Impact of the Cold - War

A development that hardened India's stance was Pakistan's joining military pacts sponsored by the United States., from 1955, India took the position that, in view of this alliance, it could no longer countenance the withdrawal of its forces from Kashmir. To repeated pleas that the withdrawal was not meant to be unilateral in any case but would be co-ordinated with that by Pakistan, its response remained immovably negative. India found a ready supporter for this position in the Soviet Union which, after 1958, blocked every attempt by the Security Council to unfreeze the situation and implement the peace plan originally accepted by both parties. This caused the paralysis of the Security Council on Kashmir a condition which has lasted from 1958 to this day.

Not even two full-scale wars between India and Pakistan in 1965 and 1971 served to shake this imbroglio.

The Situation In Kashmir

India's occupation of Kashmir has thus been left undisturbed by the international community, even though its validity has never been accepted. At no stage, however, have the people of Kashmir shown themselves as reconciled to it. There have been several uprisings, notably in 1953 and 1964, and even the relatively calmer interludes have witnessed continuous peaceful protest met with unrelenting force. Kashmir's record of opposition to the rule foisted on it can by no standard be reckoned as less genuinely demonstrated than that of, say, East Germany, Czechoslavakia, Poland or Hungary. But while the popular revolt in the countries of Eastern Europe has been observed and reported by the international media, that in Kashmir has remained largely hidden from the world's view. Some of the facts of the situation are:-

India maintains a large and highly visible military presence in Kashmir; the troops stationed there exceed 200,000, these are supplemented by para-military forces, the Central Reserve Police and the Border Security Force, who are thugs in uniform and equipped with state of the art torture machines.

There are 16 Indian Secret service agencies operating ubiquitously to spy on the 7 million citizens.

The number of those killed, maimed, tortured, illegally imprisoned or condemned to starvation by being robbed of their living by the Indian authorities runs into many thousands.

By setting one million non-Kashmiris in the State, India has altered its demographic composition, reducing the ratio of Muslims in the population.

It has subverted Kashmir's traditional autonomy by bringing its judiciary and administrative services at the higher level under the total control of the Government in Delhi.

Over the 42 years of occupation, India has so managed Kashmir's economy as to make it dependent on Indian subsidies and supplies of basic necessities like food; except in a southern pocket adjacent to India, not even a beginning has been made towards industrialization; the object of turning Kashmir into a deficit area is to impose severe economic penalty on its release from Indian occupation.

Compared to Azad (free) Kashmir, which has a 56% literacy rate and a per capita income of $450. Indian-occupied Kashmir has a literacy level of 26% and per capita income of $260, even though it is the latter which contains the traditionally more settled and developed parts of the State.

To make the Kashmir dispute as unamenable to a rational solution as it can, India has taken advantage of the undemarcated frontier with China in the north-east and militarily asserted claims which are challenged by China.

The Current Mass Uprising

Kashmir could not remain untouched by the tide of freedom which has rolled across the world, sweeping away the Soviet military invasion of Afghanistan, South Africa's 70 year old rule over Namibia and unpopular establishments in Eastern Europe. Inspired by it and also encouraged by the emergence from limbo of the United Nations as a central peace making agency, the people of Kashmir have intensified their struggle against the unwanted and tyrannical Indian occupation. Their uprising entered into its current phase in July, 1988. The scale of the popular backing for it can be

judged from the established fact that, on two occasions recently, virtually the entire population of Srinagar came out on the streets in an unparalleled demonstration of protest against the oppressive status quo. The further fact that they presented petitions at the office of the United Nations Military Observers Group shows the essentially peaceful nature of the aims of the uprising and its trust in justice under international law. India has tried to portray the uprising as the work of terrorists or fanatics. Terrorists do not compose an entire population, including women and children; fanatics do not look to the United Nations to achieve a pacific, rational settlement.

How India has responded to the uprising and is still reacting to it is clear from the following:

From July, 1988 to December,1989, the Indian troops killed more than 300 Kashmiris, including five women students at a college who were shot dead in September, 1988.

From January, 1990 to 10 March, 1992, the latest date upto which corroborated estimates are available there have been several massacres with the death-toll exceeding 15,000. The victims of Indian army atrocities include the aged, women and children. In many cases, Indian troops went on rampage in Srinagar, and other villages; as they raided houses without warning, they raped several women, including a young bride on her wedding day. On February 23, 1991 at Kunan Pushpora more than 100 young girls and women were gang raped by Indian armed forces. Among them was a 9 month pregnant Zarifa Banu who was gang raped by three soldiers. Four days later she gave birth to a baby, born with fractured left arm.

A practice maintained by the Indian troops is that of dumping in government warehouses the bodies of those killed and handing them over to the near of kin at night with strict orders to arrange burials in the dark. But the practice is not consistently observed. In one instance, Indian soldiers killed 25 Kashmiri freedom fighters and tried to destroy the evidence by throwing the bodies into the river. The people, however, recovered 15 bodies.

Since the start of the current uprising, over 45,000 Kashmiris, mostly young men and women, have been imprisoned by the Indian occupation forces. From among them, about 12,000 have been kept in torture cells. Those regarded not worthy of the labour and expense of extreme torture are

subjected to other kinds of treatment. A favorite exercise of the Indian authorities is to strip young men and women of their clothing and to photograph them naked in order to blackmail their families and extort information about the organization of the uprising.

Dawn-to-Dusk curfews, with shoot at sight orders, having been, and are being, imposed on entire cities and towns frequently; the suffering and hardship resulting from the people's inability to obtain the necessaries of daily life and medical help is easily imaginable. This inhuman policy of virtually turning the homes of people into prisons and banning the freedom of physical movement for the whole population was maintained through a 24-hour curfew lasting as long as 13 days from 3 to 17 April, 1990. Countless deaths of the sick and the infirm have been the result.

Those injured by the Indian army firing are removed to hospitals in Jammu where, under the pretext of lack of medicines, their limbs are amputated.

It has intensified its shorched earth policy by setting afire more than 14,000 homes in 47 localities in the Valley. According to eyewitness accounts, the Indian occupation forces that set the homes afire prevented fire fighters and other relief personnel from reaching the affected areas.

By giving the uprising the colour of violent religious strife, the Indian authorities have engineered the evacuation from the Vale of Kashmir of a major proportion of the Hindu community by creating a scare and then providing transport and financial aid for their flight to Jammu or Delhi. Parallel to this scheme is the importation into the State of armed gangs of extreme right-wing and Hindu fundamentalist organizations, the Shiv Sena and RSS. The stage is thus set for raping and mass slaughter for which India will be quick to put the blame on "Muslim fanatics and militants".

Some of the actions of the Indian authorities were sketchily reported by the world media in January, 1990. India then clamped strict censorship on the news and barred the entry of foreign reporters into the occupied area; as many as 30 foreign journalists were expelled from the State. The only press dispatches India allows are those filed by Indian correspondent after official briefings. The technique adopted is not to deny occurrences completely, but to minimize the deaths resulting from them. Up to the end of March, 1992, the Indian version put the recent death toll at 3200.

Conclusion

Much inhumanity, continuous violation of basic rights, frequent massacres, constant fear, hunger and misery — these are the gifts Indian occupation is bringing to Kashmir. For the populous South Asian Subcontinent, the Kashmir situation entails recurrent possibility of disaster and war. There is only one way out; the way of just and honourable peace, the way chalked and in the international agreement regarding Kashmir that future of Kashmir will be decided by the people of Kashmir through a fair and impartial plebiscite under the auspices of the United Nations. Only the exertion of the necessary moral pressure by the world powers will lead the parties to that way.

Courtesy: Greater Kashmir, April 7, 1994

Section - B

KASHMIR, 1990: ISLAMIC REVOLT OR KASHMIRI NATIONALISM

Akbar S. Ahmad

In an analysis of Muslims living as a minority in a non-Muslim state I had suggested that the traditional Muslim responses of hijra, migration, and jihad (holy war), unsatisfactory circumstances were no longer possible in the modern era.[1] A third alternative appeared to have been developing, that of accommodating as a minority in the modern state. Recent events in different parts of the world have challenged this assertion. Although the minority condition affects a large percentage of Muslims, as one-fourth of their total number, we will look at these in India, the USSR and Israel.

The central question we wish to address is whether the contemporary Kashmiri expression of independence in 1990 is part of a global Islamic pattern or yet another temporary reaction to some local provocation?[2] If the former, is it linked to the uprisings in Israel and the Muslim Central Asian Republic of the USSR? We look for a link, not a direct political one but a conceptual one. What are the similarities, what identical patterns, what unifying principle may be identified, common to these movements? Numerous related questions arise. Is this a Kashmiri intifada? If the latter, what are the sources of disaffection, what are the objectives and what effect will they have — on the fate of other Muslims in India? Also, how has the Kashmiri uprising fed communal feelings among the majority Hindus and thus reinforced parties like the BJP?

Let us attempt to discover the familiar topic running through the Muslim movements by identifying the structural similarities. We may identify seven features:-

Sense of Deprivation

A feeling of social, economic and political frustration exists in these areas. There is little industry, growth or economic opportunity. This stagnant economic picture is related to the feeling of being deliberately neglected — or discriminated against — by the Central government. Kashmir has virtually no major industrial unit in the state. Tourism during the "season" is its only source of income. The Kashmiri language and culture have been allowed to atrophy. Politically, Kashmiri's have incessantly complained that their state is almost unique in India for not having — or almost never having — fair and free elections since independence. Its own local government is seen as corrupt and inefficient, imposed on them by Delhi. Promises, from those of Mountbatten to those of Nehru, for plebiscite have been ignored and forgotten. These grievances bring together the disparate Muslim ethnic groups in Kashmir, including Ladakhi Muslim and Jammu ones, although their political positions may be different. The concept of "Kashmiriat" as a distinct, local culture is thus fuelled.

Policy of Repression

The central governments in each case have clearly shown their bankruptcy in their dealings with these movements. Failed methods, exhausted ideas and cultural stereotypes emanate from government. The bankruptcy has ensured the over-reaction. They have neither understood the mood nor its causes. The problem is seen in simplistic terms, as one of law and order, one linked to terrorism, one created by fanatics, "fundamentalists". Bullets and batons have been too frequently used.

The impatient reaction of the government is linked to its fear of the international implications of foreign involvement and possible future developments. All three Muslim areas are situated on sensitive international borders with a history of dispute and restlessness. The state simply cannot compromise on these areas without a genuine possibility and fear of unravelling its own fabric. The USSR fears that its Islamic Republics may one day break away, Israel is concerned about a separate Palestinian state and India about Kashmir joining Pakistan or becoming independent. The impact of Kashmir breaking away from India would be devastating for its 100 million Muslims cannot be trusted and must either "Hinduize" or leave the country. Forty years on, Muslims in India again face uncertainty, the old wounds have opened. Religion, politics and communalism are inextricably mingled

in India, affecting every aspect of life, even the popular cinema.[3]

These fears ensure the extraordinarily harsh measures of the state. The brutal handling by Moscow of the Azerbaijanis is contrasted to its gentility with the Lithuanians: in one place tanks and killing, in the other, talks and promises of concessions. The Israelis have lost considerable support among their traditional allies in the West for their repressive handling of the intifada. And the Indian Government is criticized even by Indians for its unprecedented heavy-handedness in Kashmir. The point is not that government-inspired agencies did or did not kill Mir Waiz; the important point is the people in Kashmir believe he was killed by them. Unending curfew, total disruption of life, escalating violence and reports of rape and torture are reported.[4] Again, let us not isolate events in Kashmir from the rest of India. The last years have seen an increase in the trends mentioned above.[5]

To be fair to the Indian government, it is important to point out that their actions in Kashmir must not be seen as specifically designed for Muslims. The response to Sikh assertion of independence was, and is, similarly harsh.[6] It is the deep-rooted central government nightmare of disintegration which is linked to the events of 1947. The only reaction to assertion of identity is suppression. "Pakistan" must never be allowed to happen again.

The state is paying a heavy ideological and psychological price. The brutality challenges its very base. India, for Indians, has always prided itself on its secular, humanist and liberal ideological foundations. Non-violence is part of its self-image and mythology. Mahatama Gandhi and Nehru, the founding fathers of the state, would have been appalled at the handling of the present crisis, as indeed are many Indians.

We saw how a Sikh bodyguard violated every tradition including the highly developed sense of honour among the Sikhs, and assassinated the very person he was meant to protect, the Prime Minister of India. Something had snapped for the assassins. Indira Gandhi had become a symbol of the repressive state to the Sikhs. Similar tensions are now being created among Muslims. The long-term effects will be devastating. These suggest a change of self-perception at all levels of Indian society.

Take the Indian military and para-military forces, one of the largest in the world with over two million soldiers. What matters in the context of

our argument is its introduction to long and involved bouts of civil administration. Sustained and final authority to administer civilian populations, with the inevitable stories of torture and rape, break down the essential core of discipline and self-image of professional fighting force. Morale, that mystical quality sustaining esprit de corps, is damaged. It is the difference dividing it from a mob or rabble. In Sri Lanka, stories of rape and torture were rife; they are also in circulation in Kashmir.

It is to be noted that the Indian army has so far remained the model of a professional fighting force, not least because it is not involved in administration and politics, unlike the army in Pakistan and Bangladesh. It is the pride and symbol of a secular India. Members from the minority communities have headed the army with professional competence and confidence. But its soldiers are sons of the South Asian soil. These are new and dangerous waters for the Indian army and it does not augur well for the army's professional stance and future.

It is also relevant to raise the issue of new and powerful force that has of late assumed a key role in South Asian affairs, the "intelligence services". Their great power and wide influence are a phenomenon worthy of serious study. They have their own ethos, leaders, corps and methods of working. With stories of mayhem, terrorism and assassination spilling out of their dirty tricks bag they pose a major challenge to notions of liberalism, humanism and tolerance (the habeas corpus is invariably the first victim of their activity). Anonymous hit-men operating from numberless "safe houses" are neither accountable to the public nor discriminating in their victims. Their definitions of loyalty to the state and of who should be on their hit list is not necessarily shared by their government. These agencies are known to be active beyond their borders, sometimes acting on their own volition (Benazir Bhutoo and V. P. Singh, as the respective Prime Ministers of Pakistan and India, have complained of this). This is a monster stalking South Asia, a Frankenstein.

Events in Kashmir, in Indian Punjab and Pakistani Sind are popularly assumed to be influenced by these agencies. The ISI of Pakistan is seen as supporting the JKLF in Kashmir by India. India's RAW is believed to bc master-minding the turmoil is Sind. Their involvement in daily life and stories of brutality feed and explain the sustained nature of the movements.

Internal Changes

It is a period of transition, coalition and weak governments, of leaders with uncertain futures. Internally the law and order in many districts across the land appears to have collapsed with horrific stories being reported in the press. A more vocal, more restless younger generation adds fat to the fire, being all too ready to bring out processions and damage property or people. Materialism is the new ideology, and the TV and the fridge every house-owner's ambition. The richer groups dream of Dallas and Dynasty-like life styles. There are high political and economic expectations and there is the growth of a large and vocal middle class.

India's middle class is an interesting social phenomenon numbering over 100 million., and has emerged over the last decade. This class contrasts with the underclass whose 350-400 million people flounder in a semi-permanent condition of deprivation. It explicitly identifies with Hinduism, which has therefore become part of the general culture of India in a manner it never was a generation ago. This class provides a fertile breeding ground for communalism.

The middle class, cozy and smug in it beliefs, would by definition encourage the status quo, wishing only for the good life. Bright young men (and women), mostly from this class, join service not to "serve the people" — a cliche from the past — but to lead better lives, often making money illegally. Corruption is widespread. The wishes of this class dictate cultural trends, its ideas neglect political developments. And it simplifies issues dangerously. For instance, on Kashmir: "why should a few million people in Kashmir be allowed to blackmail — or hold hostage — 800 million people in the rest of India?" Or: "If Kashmiri's secede the 100 million Indian Muslims have proved their untrustworthiness so it is folly to trust Muslims". And: "At heart every Muslim is a Pakistani". Also: "There is no real problem in Kashmir it is all created by Pakistan's ISI".

The above elements create national neurosis which explains the "fortress" mentality of India. Thus the most incongruous and wild accusations blame Pakistan from crop failure to political crisis. "Fortress" India must be defended from the enemy who is all around the minatory. This in part explains the extreme response in Kashmir which is seen as a weak spot in the fortress.

Sustained Nature

These movements are a sustained and total response, over a period of time, of the entire population against the larger state.They are not the usual one-day peaceful strike organized by certain groups or leaders against certain policies of central government in one part of town. It is a final rejection; a complete breakdown of communication. Hurt pride unheeded grievances, a desperation, have exploded into the movement. It explains the readiness to risk all. Commentators have been surprised that the traditionally gentle and tolerant Kashmiri's have been so agitated this time. They point to the syncretic nature of Kashmiri Islam. It is a remarkable fact to contemplate now that during the violence of 1947, Kashmir saw no communal killing. The brutality of the state merely appears to reinforce the determination for self-assertion.

Popular Character

The movements remain acephalous. With the intelligence agencies of the state we look in vain for its leaders. There is no Imam Khomeini rallying people. There is not even a Sheikh Abdullah in Kashmir. His family, who had reflected the dynastic principle of politics in South Asia, have been overtaken by events. Unknown names, faceless spokesmen, express the revolt. It is the expression of the entire community. The student, the trader, the house-wife, the peasant and the politician are all one this time. There is thus a populist element to the movements; an element which generates the uncontrolled anarchy. It is this which ensures the extremism and savage violence. The Kashmiri killing of a Muslim Vice-Chancellor was a sign of the times. The message was clear for Muslims: you were either with us or against us. The time for sitting on the fence was over for Muslims; which is where Islam comes in.

Islamic Identity

The Islamic sense of identity is prominent among other conflicting ideologies in these movements. We must first make clear our definition of Islam. By an Islamic identity I mean a general awareness of being Muslim among Muslims, whether in politics, clothes or customs, not necessarily in terms of religious orthodoxy. This is a recent development, for large parts of these communities were neutral to their Islamic identity over the last decades. Many had perhaps felt it prudent to consciously set aside Islam. They

had become secular Soviets, Palestinians or Indians, good citizens, loyal nationals. But in the end they also faced the tanks and bullets of the state. They were labelled, "en bloc", Muslim rebels. No "ism" - Marxism or secularism — protected them. With others they had little to fall back to expect the Islamic identity. Besides, once the momentum picked up, the only support they received was from other Islamic groups, whether Iran supporting the Soviet Muslims, the Arabs, the Palestinians or the Pakistanis, the Kashmiris. Muslim leaders have always had a constituency in Kashmiri hearts. When those in Pakistan die, whether of the left, like Bhutoo or the right, like Zia, there is wide-spread mourning, a general sense of loss.

But it is important to point out that though Pakistan appears as a champion of Kashmir and has gone to war twice at least with India over Kashmir, this time Kashmiris appear to demand their own future. Many would prefer an independent Kashmir, free of both India and Pakistan. The slogans of "Azadi", independence, in Kashmir exclude both Delhi and Islamabad.

The Islamic label was also a convenient one for the Western media. A mosque or mullah appear as easily recognized symbols of "Muslim fundamentalism" in the West. A rally after the Friday prayer, a man with a beard arguing for rights, a youth with a gun are projected as Muslim fanatic.[7] It was therefore easy to see these movements as Islamic. Unfortunately, this also ensured indifference to the plight of these communities in the West. The last thing the West wants is more Muslim fundamentalism. So the 2000 deaths this year in these three areas made little impact internationally. In contrast, threats of cutting off gas to Lithuania by Moscow were discussed on the front pages of the newspapers and during the main TV news.

But media is a double-edged sword. Pictures of Muslims standing up for their rights, facing tanks and bullets, in different parts of the world on TV or in newspapers inspire Muslims elsewhere. An apocalyptic mood is created and enhanced. "If my brother can face Israeli soldiers on the West Bank why can't I face Indian ones in Kashmir? they ask.

Global Changes

Lastly, though certainly not the least, is the importance of the universal ideas of self dignity, freedom and identity. The contemporary climate

that has generated these ideas is a European one juddering East-European states.[8] But reporters in Kashmir, like Raymond Whittakar, note the constant reference in conversations to "Lithuania" as a potent symbol of the times and mood. There is thus in these movements a resonance of a larger global pattern.

The post-modernist spirit, easily noted in Kashmir, is a combination of cultural jouisance and nostalgia, of schizophrenia, of challenging central authority and accepted traditional notions of modernity such as "progress", "central planning". But South Asian political figures and bureaucrats appear well fortified against the post-modernist winds blowing in the world. Because they do not comprehend the new universal spirit they cannot concede its cultural and political implications.

We may therefore conclude that it is a combination of external and internal factors that has created the conditions for, and explains, the Kashmir movement in 1990. There is little doubt that it is substantially different to earlier expressions of identity. In this case, the desperation and determination appear extreme, sustaining the movement against the full and heavy-handed might of the state. Islamic revivalism is part of the explanation for the movements, deprivation and distrust the other parts. The clumsy handling of the movement by government ensures its continuation. The men in power are out of tune with the times in Kashmir. Where compassion and imagination are required we note violence and suspicion. The sheer lack of charity is compounded with absence of judgement.

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Courtesy: "Stategic Studies"
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KASHMIR: THE GROUND REALITIES

Ashok Mitra

The stakes in Kashmir, it could be argued, are much too high, and a no-nonsence Governor is the only hope. May be, or may not be. Settling old scores with Farooq Abdullah, or to punish him for his waywardness, is not a pointless exercise. He and the National Conference have little credibility left in the Valley. Where does that leave the Union of India through? With the virtual disappearance of the National Conference, the last link between the ethos of Kashmir nationalism and that of a multi-lingual, multicultural, multi-religious Indian nation is in fact also snapped. The alienation between the two streams of consciousness is complete and the circumstances are certainly much worse than they ever were since 1953.

A strong Governor can temporarily restore an aura of law and order. Ground realities in Kashmir will however not be altered thereby. Disenchantment with India is a near-universal phenomenon. This denouement could be on account of mistakes committed by Indira Gandhi, it could be because of the lack of political acumen on the part of Farooq Abdullah and the eagerness he displayed 1n 1987 to regain his chief ministerial slot by surrendering to New Delhi and which disgusted his erstwhile admirers. "Recounting of old Wives" tales will not however obliterate the hard facts as they have emerged. We can, for form's sake, complain about infiltration from across the border. We can implore the authorities in Pakistan to observe the letter and spirit of the Simla Agreement. We can send emissaries here, there and everywhere to try to explain our stand that religion has nothing to do with the Kashmir imbroglio, which in addition, continues to be matter wholly belonging to our domestic arena. But can we put our hand to our heart and assert that is all there is to it? What about the people in the Valley, what about their emotions and sentiments? We may cling to the pre-

tence that results of the November 1989 poll for the Lok Sabha seats, in which not even five per cent of the Valley's electorate bothered to participate, constitute the summum bonum of democratic representation; we will be only fooling ourselves. Our illusions will not sway the mood of the sullen young people in Srinagar or Anantnag or Sopore. We are unlikely to come up with another Bakshi Ghulam Mohammad either; thirty seven years have rolled by, it is, as the Americans says, a different kind of ball game. Other things remaining the same, we will therefore be forced to rule Kashmir only through an army of occupation. For how long, and at what cost? One or two stragglers could be expected to be still around to act as our servitors. With each month and week, even their ranks will dwindle. Our declamation to keep Kashmir whatever the cost notwithstanding, sooner or later we will be forced to ask whether the return was really worth the outlay. We can provide, by our bellicosity, some instant satisfaction to the breast-beating jingoes, but will that promote either our long-term international interests, or strengthen our claim of being a just republic? Year after weary year, huge dollops of scarce resources, which could otherwise be spent on expanding the nation's irrigation and power potential or for blanketing the countryside with a crash programme of nutrition and literacy, will need to be preempted so that the people of Kashmir, comprising less than one-half of one per cent of the nation, could be bribed and the army of occupation kept equipped to jump into action on occassions when bribery fails to click. Who will decide, whether such an arrangement indeed maximises, for all times, the nation's welfare?

Soliciting foreign support for our stand in Kashmir cannot be expected to yield many dividents; the world has grown much too cynical in the past few years. Why beat about the bush we had our opportunities in Kashmir; we muffed each one of them. A minority government at the Centre has its limitations. A permanent army of occupation is still a non-answer; statesmanship demands that, alongside of offering the National Conference a further chance, a channel of communications is also opened with those who are currently rampaging on the streets in Srinagar. We have no right to hold a people against their will, either we talk to them and try to win back their confidence, or we let them go to whatever fate they want to drift into.

Courtesy: The Telegraph, Calcutta February, 1990)

RISE OF MILITANCY IN KASHMIR - A PERSPECTIVE

Zafar Mehraj

It is not at the spur of the moment. It is not abberation. Birth of militancy in Kashmir had its incubation period. It went through an evolutionary process. The seeds of militancy were sown by the erstwhile Plebiscite Front during its 22 years of political existence. These seeds sprouted out as saplings and wilted, some seeds remained dormant and were waiting for a proper substratum to thrive upon. When one looks at the history of Plebiscite Front from 1953 to 1975, the roots of militancy are clearly seen in this organisation. The Plebiscite Front leadership was either author of many, a militancy group in the State or patronized them.

After the 1964 holy relic movement, there was a phenomenal rise in the secessionist Youth politics in the State. Two prominent Youth Organizations were born, one lead by Abdul Rashid Kabli and known as Students and Youth League and the other called as Young Mens League, which enjoyed the full patronage of Plebiscite Front founder late Mirza Afzal Beig. During the year 1965, there was mass youth upsurge in the Kashmir Valley and these two organisations were in the vanguard. The 1965 students upsurge saw the emergence of a few more organizations such as Youth Action Committee and Students Plebiscite Front. But these organisations had a very brief life. Some of the youth in these organizations had established rapport with the Pakistan infiltrators who made their appearance on August 5, that year. The activists of these organizations were later on detained for three to five years and with this their political career came to an end.

With the rise of some youth from the Young Mens' League and also the Youth League on the State's political scene the Plebiscite Front leadership started feeling jittery and conspiracies were hatched against the new emerging youth leaders. The 1967 saw fragmentation of the Young Mens'

League into a number of factions, and surprisingly all factions had their patron in Mirza Afzal Beig. The Plebiscite Front launched a campaign of vilification against the Youth League especially its leader Abdul Rashid Kabli, presently a member of Lok Sabha from Srinagar. However, all the youth organizations had identical slogans to that of the Front. 1967 also saw the first incident of militancy in the State when some youth were arrested for allegedly attempting to murder a CRPF jawan in Nawakadal area in interior Srinagar. They were tried in camera before a special court and the case came to be known as Nawakadal Conspiracy case. The accused youth were released on bail after about three years of their first arrest. However, the case was withdrawn against them in 1975, when Sheikh Abdullah took over the reins of the government.

To start with the youth politics, in the state, like the Front and other like minded organizations, had the slogan of right of self-determination as its main plank and their movement was by and large peaceful, with no trace of militancy in it. The fragmentation of youth organizations and multiplicity of their number, however, infused an element of militancy in some of them.

It was in 1968, that a group of Youth from Gandhi Memorial College resolved to start an armed struggle in the state. The said youth forcibly entered the Islamia College premises in the dead of night and tried to steal some riffles from the N.C.C. room of the college. However the chowkidar of the college grappled with the intruders and nabbed one of them. The incident made headlines and about eight youth were arrested in this connection by the police. They were also tried in camera and the case called as Islamia College Conspiracy case. Plebiscite Front, those days, had set up a legal defence committee, with the Front President Mirza Afzal Beig, who himself was an able lawyer heading the same. The Committee comprised of well known Kashmir lawyers like Mohiudin Malik, Abdul Rashid Shah, Mohammad Yaseen Sidiqui and Sheikh Nazir Ahmad, who at present is the general secretary of the ruling National Conference. Mirza Afzal Beig became the Chief defence counsel of the accused students in that case. After two years the students involved in this case were released on bail. This case was also withdrawn with the Sheikh's return to power in 1975.

A group of intellectuals mostly teachers from the colleges were also arrested in 1967 for having established links with Mohammad Maqbool Bhutt, founder of Kashmir Liberation Front, who was hanged in Delhi's

Tehar Jail, in February, 1984. Bhutt was arrested then for having allegedly killed an officer of Intelligence Bureau, in the border district of Baramulla in north Kashmir. The group of teachers was considered to be "Core Group" of the Kashmir Liberation Front, in this part of Kashmir. The members of this group were detained under the then Defence of India Rules and Preventive Detention Act. They were released after a couple of years but no formal case was registered against them nor were they ever produced before a court of law. Almost all of them later bid adieu to politics and joined their respective professions. Those who were most enthusiastic either formed some "educational society" or some "social organization" for giving vent to their "inner thoughts and feelings".

After 1967, small groups were nabbed for either having planned subversive activities or having indulged in militancy related incidents. It was in January 1971, that authorities here claimed to have unearthed a gang of subversives who had planned large scale subversion in the State. Some youth were arrested in connection with an attempt of looting Hazratbal Branch of Jammu & Kashmir Bank. The organization responsible for this was identified as Alfateh, which emerged as a well organized and closely knit militant organization, with plan to "liberate Kashmir by resorting to armed struggle".

But who was really behind the idea of creating this outfit, is still shrouded in mystery. However, there are strong reasons to believe that Alfateh was also the brain child of the Plebiscite Front leadership, as several prominent leaders of Alfateh were known close confidants of Mirza Beig. With the arrest of some youth in connection with the bank decoity case, police found some important clues about the activities of the gang and its activities. Large scale raids were conducted all over the state and about 250 youth were arrested. One Ghulam Rasool Zahgeer was said to be the chief of this underground organization, which had drawn a detailed programme of subversive activities on large scale. Other prominent leaders of this gang included Nazir Ahmad Wani, then a district agriculture officer in state government, Mohammed Fazul Haq, Dr. Farooq Butt, Dr. Abdul Alla. Mohammad Altaf Khan alias Azam Inquilabi, who at present is one of the few most prominent underground militant leaders, was also a member of Alfateh, but he was not tried, for some unknown reasons.

Fortunately for the police, Zahgeer had maintained a diary about the plans of Alfateh as also the members enrolled by him. It helped police bosses

to nab all the activists of the gang without giving them any chance to escape from their hideouts. In the course of raids conducted by the police, it was also claimed that large number of arms and ammunition and other material related to the proposed plan of the gang had been seized. A small house on the bank of river Jhelum on Srinagar - Anantnag road was identified as the head-quarters of Alfateh. Out of 250 arrested youth, only 16 were tried on charges of sedition and waging war against the state, before a special court. Remaining activists were detained for a period ranging between one and two years. Again Mirza Afzal Beig became the chief defence counsel in this highly publicised case.

Inside the jail the central leadership of Alfateh got divided into two. One group led by Ghulam Rasool Zahgeer was pro-Plebiscite Front leadership while the other headed by Nazir Ahmad Wani was deadly against the Plebiscite Front leaders including late Sheikh Abdullah, who was Chief patron of the Front. Towards the end of 1973, when Beig - Parthasarty dialogue started, all the arrested activists of Alfateh were released on bail. The two factions inside the jail emerged outside as two political parties. The one led by Zahgeer was called Awami Inquilabi Mahaz (Peoples Revolutionary Front) and other headed by Nazir Ahmad Wani came to be known as Peoples League. Zahgeer group had full support of Plebiscite Front leadership and its head-office on new secretariat road was in fact inaugurated by Mirza Afzal Beig. The constitution of this group believed in separation of Jammu and Kashmir from Indian Union. It is said that Mirza Beig wanted to use it as a pressure group for furthering his dialogue with Mr. Parthasarthy. After 1975 Kashmir accord, this organization was wound up and its members were either inducted into government services or given other favours.

On the other hand Peoples League emerged as the main anti-Accord youth organization. It held number of demonstrations against the accord and its members played an active role in making the bandh call given by former Pakistan Prime Minister late Z.A. Bhutto, against the accord a great success. The League's think tank included Nazir Wani, Hamidullah Butt and Azam Inquilabi. The most wanted Kashmir militant Shabir Shah was then a junior leader of League and happened to be district president. Later the League also got divided into two on the issue whether it should strive for an Islamic State or Islamic Socialist State, the latter coinage then being popular among the pro-Bhutto youth. Azam Inquilabi left the League in 1974 and formed his own Islamic Students and Youth Organization, which later on was rechristened as Islamic Jamit-u-Tulba and Mr. Tajamul Islam,

presently living in some Muslim country, became its first president.

From 1977 to 1982, the separatist youth movement virtually died down. Peoples League got redicted to few youth like its president Farooq Rehmani and then general secretary Shabir Shah. Nazir Ahmad Wani who remained underground for sometime fled to Saudi Arabia. Azam Inquilabi bid farewell to politics and joined government service as a teacher in Education department and used to teach students in S.P. High School here. Tajamul Islam also went underground and according to reports here is now settled in Iran. During these years, one would occasionally come across a press release from these organizations demanding that those arrested under Public Safety Act be set free. It was only after the death of Sheikh Abdullah that the secessionist groups started gaining strength and started intensifying their activities. Azam Inquilabi wrote a book Qual-i-Faisal in support of Kashmiris separation from India and resigned from government service to join Mahaz-i-Azadi (Liberation Front) founded by a veteran Kashmiri leader and erstwhile confident of the Sheikh, late Soofi Mohammad Akbar. It will be interesting to note here that few years back when Azam Inqualibi held a press conference at a local restaurant in Srinagar, journalists asked him about the membership of his organization and its mission. Pat came reply from him: "I am only carrying the torch halfway left by Sheikh Mohammad Abdullah and as regards membership of my party, I am the president, general secretary and the working committee".

It is a fact that the separatist Youth organizations were feeling totally isolated till the recent past. However, they gained momentum after the death of Sheikh is an intriguing question, with different people analysing it in different way. However, almost all the political analysts agree that one of the main factors responsible for the sudden growth of militancy in Kashmir was the manner in which the last assembly elections in Jammu and Kashmir were held.

It is an open secret that majority of the youth who at present are involved in the militant movement, directly or indirectly, took an active part in election campaign. They were in the fore front of the campaign launched by the newly born Muslim United Front, a loose alliance of about a dozen small parties and other groups. What then forced them to take to armed militancy, get training in handling of arms across the border and indulge in large scale subversive activities.

Firstly the alliance partners, Congress and National Conference need not to rig the polls at all. Even the senior leaders of Muslim United Front agree that the party could have at best bagged 15 seats from Kashmir Valley, which did not pose any threat to the formation of coalition government in the state. Then what made the alliance leaders both in the state and the centre to go for large scale rigging, beating all the past record? Sheer nervousness and nothing else.

However, what, one feels, aggravated the situation, was the manner in which the coalition government started behaving, against its political opponents, especially those having any connection with the Muslim United Front, to those candidates or their active supporters, even before the process of election was complete. Almost all the candidates of the Front, who were "defeated" were arrested immediately after the results were announced, alongwith their prominent supporters. They were detained under Public Safety Act and sent to different jails in Jammu region, without any valid charge. Some of them were even subjected to torture.

It was this policy of the government which is to a large extent responsible for the growth of militancy in Kashmir. large number of youth, who had joined the mainstream and had actively participated felt cheated as a result of large scale rigging and if that was not enough, their sentiments were further injured by resorting to indiscriminate arrest.

The frustration among the Muslim youth came in handy for the pro-Pakistan element which has been here right from the independence and those not believing in the finality of accession who otherwise were very inactive and had almost reconciled to the fact that Kashmir could never be separated from India. It was a God sent gift for these elements who did not miss the same and succeeded in winning over the frustrated youth, making them to believe that their future was not safe with India and they would always be denied their democratic rights. This worked and large number of youth crossed over the border where all arrangements for their further brain-washing and imparting them the arms training had been made.

One of the examples in support of this contention is that of Aijaz Dar, who was killed when he made an unsuccessful attempt on the life of Kashmir Police Chief A.M. Watali. Aijaz Dar was one of the prominent activists of MUF who took active part in the election campaign. He was arrested right inside the counting hall when the counting of votes for

Amirakadal constituency, from where, present Education Minister Mohiudin Shah was declared elected was still in progress. It is said that Aijaz was beaten up by Mr. Shah inside the Shergardhi Police Station where he was lodged and that too in presence of some senior police officers including Mr. Watali. He was later detained under Public Safety Act. After his release he disappeared and nothing was heard about him till he was shot dead by the security guards of Mr. Watali last year.

Aijaz Dar's case is not a solitary incident and there are so many Aijaz Dar,s in the rank and file of the armed militants.

Courtesy: "The Kashmir Times", Sunday, September 24, 1989.

Section - C

KASHMIR
- CASE FOR SELF-DETERMINATION

Minoo Masani

The state of Jammu and Kashmir was never a part of India, Lord Mountbatten gave the Maharaja of Kashmir the option to join either India or Pakistan. Led by Sheikh Abdullah the Muslims of Kashmir persuaded the Maharaja to accede to India on the strength of a solemn promise that the accession would be subject to a plebiscite.

A lady asked me other day why Gorbachov would not agree to the Lithuanian demand for independence from the Soviet Union. I counted with the question; "Do you believe that Kashmir belongs to India?" I said. "There are too many Russians who wrongly believe that Lithuania belongs to the Soviet Union, just as you believe that Kashmir belongs to India; so poor Gorbachov does not feel free to accede openly to the Lithuanian demand. "Unfortunately, the good lady's answer could have been by nine out of ten Indians. Let me make it clear at the outset that while my sympathies are with those who want the Valley to be independent, I condemn the methods of violence and terror to which some of them are resorting.

I am delighted to read two recent articles in the Press, one by Ajit Bhattercharjea, entitled. "The Last chance in Kashmir" which appeared in The Statesman on 7th January and the other by Pran Chopra, which appeared in The Independent of 15th January under the title. "We have failed in Kashmir". From what these experienced and prominent members of the press whose patriotism cannot be doubted have said, the responsibility for the current situation lies not with the people of Kashmir but with the Gov-

ernment of India in Delhi. Even more encouraging have been the statesman-like words of Mr. Simranjit Singh Mann on 26th January asking the Governor of Kashmir to lift the siege by the Indian Army. He went on to say, "The Indian Government is bound by Article 51 of the Constitution to its international commitments. Under the United Nations charter the state of Jammu and Kashmir is disputed territory". He further observed: "The people of Kashmir have their rights and I support every democratic action. Plebiscite is not a bad word. The right of vote must prevail over the right of the bullet." Along with me, there are thus at least three Musketeers in the field. Having been a student of this matter since independence, I heartily concur with these gentlemen even though it is not fashionable to say so.

Conditional accession

The state of Jammu and Kashmir was never part of India. Let me repeat that at the time of the transfer of power by the British, Kashmir was not part of India. Lord Mountbatten gave the Maharaja of Kashmir the option, if he so desired, to join either India or Pakistan. The Maharaja, better known as Mr. A, dithered but led by Sheikh Abdullah, the Muslims of Kashmir persuaded the Maharaja to accede to India on the strength of a solemn promise given by Prime Minister Jawaharlal Nehru, that the accession would be subject to a plebiscite to choose their destiny. India later forgot all about the plebiscite and to this day the people of Kashmir Valley have been denied the right of self determination.

Nehru's Regret

The later story is a sad one. Nehru joined in a conspiracy to make a coupd' etat against the Kashmir Prime Minister Sheikh Abdullah, arrested him and put the corrupt Bakshi Ghulam Mohammad as a puppet in his place. Abdullah then remained under trial of false charges for about twelve years because the case against him could not be proved. In January, 1963, my friend Lal Bahadur Shastri, who was then minister without portfolio in Nehru's Government told me that Jawaharlal Nehru wanted Abdullah to be released. "Maine Sheikh Saheb ko bada anyay kiya hai" (I have done great wrong to Sheikh Abdullah). So the Sheikh was duly released and sent by Nehru to Pakistan to negotiate a settlement of the Kashmir problem with President Ayub Khan. He was to bring Ayub Khan to Delhi to sign an agreement if he agreed to do so. Sheikh Abdullah telephoned Nehru from Pakistan to say that Ayub Khan was willing for a settlement and so the day

of his visit to Delhi was fixed for June 20. Tragically, Nehru died in May and so Kashmir remains a problem to plague both countries.

JP's Mission to Pakistan

When Lal Bahadur Shastri was Prime Minister, he sent my friend, Jayaprakash, to Pakistan to find if the settlement of Kashmir was possible. When Jayaprakash returned to Delhi, he saw me before he saw Lal Bahadur and he told me what Ayub had suggested. Jayaprakash told me that Ayub suggested that Ladakh and Jammu should join India but that the Kashmir Valley should be independent and, as in the Austrian Treaty between the Soviet Union and the U.S.A., India and Pakistan should guarantee the independence and integrity of the Valley. When Jayaprakash returned from Lal Bahadur Shastri later that evening, he was depressed because the India Prime Minister had failed to respond. "Yeh cheez badi acchi hai, lekin Parliament aur meri party nahin mane gi" (This is very good but it will not be acceptable to Parliament and my party). How sad, I commented to Jayaprakash that perhaps he and I were the only Indians who could see our own country's imperialism along with that of other countries.

Rajajis' warning

Rajaji, always the statesman and a realist, wrote in Swarajya as far back as September 25, 1965, "... It would be as foolish as any foolish thing a nation can do, if we proceed on the assumption that we can hold any people down by sheer force and without making it absolutely manifest to world nations that we have the consent of the people concerned by imposing any administration on them. Like injustice, the political decision concerning Kashmir, or any part of its, should .... be on the basis of self-determination ..."

It is all very well to send Jagmohan as Governor and start shooting. The first result of this repression is a revolt of the Kashmir police who have alleged atrocities committed by the Indian armed forces on the people of Kashmir. So, now we have only any army of occupation to rely on. It is possible by brutal terrorism to suppress a national urge for freedom, but for how long? Don't recent events in Eastern Europe have a lesson for our government?

Neutralizing the Valley

Many of my friends tell me that if a plebiscite was held, the people of Kashmir would vote to join Pakistan. I do not agree. They would vote for Independence. But why not try this out by asking Pakistan government whether they would join India by neutralizing the Valley on the lines suggested by President Ayub Khan? If he declines, the blame will be on Pakistan. If he agrees, let us go ahead and do the right thing.

This advice may be palatable to many, but sooner or later, it will have to be carried out, so why waste time? Why not turn to the path of conciliation right now? For one thing, we can stop spending the large amounts of money that we rather stupidly spend on Kashmir without getting any gratitude.

Courtesy: Dalit Voice, Banglore, August 1, 1990

IT IS TIME THE UNITED NATIONS AND WORLD POWERS TOOK RENEWED INITIATIVE TO ENSURE THAT THE KASHMIRIS ARE ABLE TO EXERCISE THEIR LONG - AWAITED RIGHT TO SELF-DETERMINATION, says ***Azmat Ahmad Khan***

UN FAILURE IN KASHMIR

The UN Secretary General, Boutrus Ghali, has been quoted in a recent press report as saying that he is unable to take an initiative on an old issue without the express agreement of India and Pakistan. No doubt, the UN Secretary General is fully aware of the Kashmir issue — wrongfully termed as the "India and Pakistan Question" at the UN — and its complications with regard to non-implementation of the various Security Council resolutions and UNCIP recommendations of the forties. One has only to look at the sequence of events in the UN in the late forties to determine what forces and sentiments were behind turning an issue of a people's right to self-determination to one of territorial disputes between two neighbouring states. Was it not Pakistan — now an undisputed champion of the cause of self-determination for the Kashmiri people — that lead the world to believe that a plebiscite or a referendum in favour of either India or Pakistan would be acceptable to both the countries as well as the Kashmiris.

Why has the UN failed to positively respond to Kashmiri calls for an intervention to protect the indigenous population from the real threat of genocide from a member country, India, which has let loose a reign of unchecked terror on the unarmed Kashmiri civilians sympathetic to the independence movement? The Pakistan Foreign Office and the Kashmiri politicians are equally to blame for the UN failure and its apparent unwillingness to tamper with India, despite their successful attempt to proclaim and project India as the only guilty party in Kashmir.

In Kashmir, both the International Covenant on Cultural and Social Rights and on Civil and Political Rights is being violated. There is abundant proof that Articles 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 20,

21, 22, 23 and 26 of the Universal Declaration of Human Rights are persistently being violated by the occupation forces. The UN and the world leaders, pre-occupied with the events in the former Soviet Union and Yugoslavia, have largely ignored the suffering of innocent men, women and children of Kashmir and to some extent have allowed the situation to fester. The Muslim world quite shamelessly remains apathetic — allowing the continuous carnage and bloodshed in Kashmir — with one or two quite whispers from some corners. The Kashmiri nation and the peace-loving people of the sub-continent are fast losing faith in the UN as an international peacemaking body. It can be stressed with greater emphasis the UN and the influential world powers such as Britain should take renewed initiative to ensure that innocent lives in this part of the world are saved and people are able to exercise their long-awaited right to unfettered self-determination. Only and only after having exercised that right can prospects for real peace in the region be achieved.

As indicated by the chairman of the British Parliamentary Human Rights Group, Lord Avebury, in a recent letter to the United Nations, the UN Secretary General has the power (under various articles) to initiate intervention to stop India's genocidal war against the Kashmiris.

According to Lord Averbury, Kashmir under "colonial and alien domination" is a clear case for de-colonization and no one can disagree that the reunification and withdrawal of all foreign troops to the pre-partition position — with state control handed over to an international body such as the UN, is an amicable solution. This is the only way through which the over four decade bloodshed and suffering of the Kashmiri nation can come to an end. A precedent already exists in the case of Namibia and Western Sahara where the United Nations achieved agreement. A similar message was brought home to world leaders including Prime Minister Nawaz Sharif after JKLF marches in early February and March, which were designed specifically for that purpose and to defy the occupation authorities of both India and Pakistan.

The Kashmiri people's legitimate struggle to achieve their national aspirations for an independent homeland, with a right to attain membership of the UN, is supported by the UN General Assembly Resolution 2621 section 2(b) and section 3, subsection 2, and can not be rebuffed by India as "Pakistani sponsored terrorism"

The UN Secretary General has an obligation to all nations — whether represented or unrepresented at the UN, to take up their causes. Now is the time for world leaders to spare a few moments for this issue, which enrages world conscience and sits on a short fuse -- ready to explode another February.

It has been widely suggested that a neutral Kashmir — a buffer between India and Pakistan can not only become a bridge of neighbourly friendship for regional cooperation between the respective countries, but can also bring an end to decades of hostilities — preventing the ominous shadows of yet another futile war from becoming a reality. A peaceful solution to the issue can ultimately result in the reduction of a grave military threat to the region, as well as bring about a halt to the dangerous nuclear weapons' race. It is the only way India and Pakistan will be able to divert their limited resources to building their own weak economies at home, and combating poverty and disease in order to raise the living standards of their coming generations.

But to get there after decades of fermentation, mistrust and disruption, a cool and calm approach that upholds the laws of logic and satisfies the majority of the 13 million people of Kashmir, is required from all sides. India's failure to comply with her promises to the people of Kashmir, Pakistani complicity and the impact of the cold war were responsible for non-implementation of the United Nation's resolutions on Kashmir, which called for an impartial plebiscite. Indian subterfuge and Pakistani complacency (mostly due to her internal turmoil) had thrown the UN resolutions into limbo. Not surprisingly, Kashmiris have lost faith in the UN as a world peace-making body. And they now demand a third option — the right to become independent, to be included in such a plebiscite.

India, and to some extent Pakistan, have skillfully propagated a series of self-perpetuating myths about Kashmir —- portraying it as being a territorial dispute. Both countries have mislead their people into believing that Kashmir belongs to them. It is the ugly face of that reality which now stands in the way of an early settlement. On the Pakistani side, the echoes of "Kashmir — our crown", haunt world opinion. While many Pakistani leaders, and some Indians, privately admit that an independent Kashmir may well be an easier end to this deadlock, no one dare admit that publicly.

Many Kashmiri leaders from both sides will openly admit that the current movement — having strong overtones of secession — is not in favour of accession to Pakistan and that any move in that direction, while impossible to achieve, will not last long. The five Muslim leaders released from Indian prisons last month, in a press conference in Srinagar declared that their movement was a movement for self-determination and that the independence option should be included in the referendum. This contradicts the claims that Kashmiris are fighting for the implementation of the UN resolutions as they stand.

The UN resolutions of the forties — important as they may by — do not explicitly provide for such an option. Contrary to the international belief the Pakistani press thinks the inclusion of the third option will damage the Pakistani stand, some of the pro-Pakistan Kashmir leaders have expressed the fear that the Muslim majority vote will be divided and result in undesirable consequences. The Kashmir people's will — never accounted for in the past, still remains ignored. To accommodate all Kashmiri aspirations and to take into account the will of the people fairly and squarely India (and I am sure Pakistan too) will find it easier to go back to the UN and suggest the following in order to update the old UN resolutions.

A referendum in the state of Jammu and Kashmir should be held in two stages. The first round could ascertain the difference between those favouring accession (to both India and Pakistan). and independence. As a result, if an overwhelming majority votes are for accession, then the independence option should be excluded from the second round.

But to get there, all Kashmiri organizations and their self-proclaimed international friends should concentrate on persuading the arrogant and somewhat naive Indian leaders to accept the fact that Kashmir is no longer a comfortable crown of India, and their government should sit on a negotiating table with Pakistan and the Kashmiri leaders to agree to an amicable solution in the above framework.

Until then, the Kashmir struggle shall go on. What is needed from Pakistan is a much more flexible and honourable approach, which shows respect for Kashmiri national aspiration, if she wishes to avoid international humiliation of the kind suffered by India. Pakistan's policy of appeasing their Indian "friends" in the past has failed and haunts the Kashmiris even today. Repeated show of strength and the erection of the "Wall of

Chakoti" is no answer to Kashmiri cries for freedom. Lessons should be learnt from similar tactics used by the Indians across the "wall of division".

It must be profoundly accepted that the forces that perpetuate division cannot last indefinitely. Eventually, India (and the world) will have to talk about self-determination in one form or the other, because history teaches that however many people may die, one can never kill the idea of nationhood. One day, the people of Kashmir will determine their own future. And that is exactly why the world leaders and the media should do — move to help a helpless nation yearning for freedom. Admittedly, with our lack of oil wells and nuclear arsenal, we are not a prime object of world attention but the rivers of blood and the cries of our women and children, in comparison to those of Kuwaitis, deserve a little more attention.

Finally, it must not be forgotten that the JKLF and its allied organizations wish both India and Pakistan good luck in resolving their differences peacefully. But the future of Kashmir is not for India and Pakistan to decide bilaterally. The British government is now beginning to realize that all attempts to encourage the healing process of deep wounds already inflicted upon that nation are most welcome but peace at the cost of freedom has never been and never shall be accepted by any people, no matter how great or small they may be. And with the grace of Allah, our great heritage and people don't stand to be made an exception — come what may.

Justice Manzoor Hussain Gilani

calls for a more active UN Role in the Kashmir Dispute

THE UNITED NATIONS ON TRIAL IN KASHMIR

Boutros Ghali, the newly elected secretary general in his first official news statement, has rejected the role of the United Nations on Kashmir. He has asserted that neither the Security Council, nor any other organ of the United Nations could implement its earlier resolutions without agreement of the concerned states i.e. India and Pakistan.

The statement of the UN Chief Executive is a matter of concern and astonishment. Apart from holding the exalted office of the Secretary General of the UN, he is a renowned luminary. His awareness and positive approach on the legal, geopolitical, economic and social issues has remained balanced. However, it is quite ironical and unfortunate that his approach towards the internationally recognized Kashmir issue (which has turned into a battle field now) seems biased, rather tilted towards the Indo-American point of view. Besides, his own powers, rather obligations, under Art. 99 of the United Nations Charter, his statement is derogatory to the following Articles of the United Nations Charter which define the purpose and principles of the United Nations and pacific settlement of dispute.

Art. (1) "To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of peace".

Article 34 of the Charter, which regulates the pacific settlement of disputes, ordains:

> "The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security".

The only argument or plea, which can be quoted in favour of the statement of the Secretary General is Article 2(7) of the Charter, which reads as:

> "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Charter-VII".

Keeping the above Article in view, it proves beyond any shadow of doubt that the case of Kashmir is quite different than has been assumed by the Secretary General. Firstly, it not a domestic or strictly regional issue, as the UN has already intervened. Secondly, the government of India has itself invoked and submitted to the jurisdiction of the UN and has accepted its role for resolution of the dispute, and acquiesced to the resolutions passed by the Security Council on January 17, 1949; January 20, 1948; April 21, 1948 and June 3, 1948. And thirdly, Kashmir is still on the agenda of the Security Council — though dormant due to culpable default.

The above resolutions were not only accepted by both the states, but were partially acted upon too. The "united Nations Commission for India and Pakistan" stands appointed under the above referred resolutions and it has, by passing two very important resolutions on August 13, 1948 and January 5, 1949, started implementation of the resolutions of the Security Council. But India and Pakistan have, in compliance with the resolution of the UN Commission for India and Pakistan dated August 13, 1948 ordered cease fire "to apply to all forces under their control in the State of Jammu and Kashmir". United Nations observers have been permanently appointed in the State of Jammu and Kashmir to ensure the cease fire and report its

violation to the UN. The next stage under UNCIP resolution dated August 13,1948, was the evacuation of Pakistani and Indian forces from the State, so as to make the circumstances conducive for holding the plebiscite in the State, which is the final stage visualized by the August 13, 1948, resolutions. Eventually the Security Council was pleased to appoint General Mc Naughtan of Canada to evolve methods and settle the dispute with respect to evacuation of Indian and Pakistani forces. The recommendations made by General Mc Naughtan were accepted by Pakistan but not by Indian the negative Indian attitude, the Security Council was pleased to replace Gen Mc Naughtan by Sir Owen Dixon of Australia in April, 1950. His recommendations and formulas were also not accepted by India. Consequently, he was also replaced by Graham P. Frank from America in April, 1951.

The Security Council again, while rejecting the resolution of November, 1956 passed by the Constituent Assembly of Indian Held Kashmir declaring Jammu and Kashmir as an integral part of India, declared that the future status of the State of Jammu and Kashmir can be settled only and only by plebiscite. A resolution was passed by the Security Council of February 14, 1957, emphasizing the need of immediate evacuation of forces from the State and holding of plebiscite under UN auspices. The task of suggesting a workable formula for carrying into effect the UN resolutions was entrusted to Gunnar Jarring of Sweden by the Security Council, on policy, made this effort unsuccessful as well and Gunnar failed in his mission. For perpetuating its immoral and unjust occupation over Kashmir, India not only refused to abide by the UN resolutions, but also refused to acknowledge the right of self-determination of free and impartial plebiscite to Kashmiris.

The freedom movement could not get the required momentum for one reason or the other and the UN as well could not discharge its responsibility in this connection. The issue has, thus, remained in the cold storage for almost four decades. The armed struggle in Kashmir now, is inspired by the geo-political changes in the world, besides, continuous denial of rights to Kashmiris by the occupation forces. If we analyse recent events, we find that the world experienced dramatic changes in Afghanistan raged an organised armed struggle, "Jihad", against the Soviet Union and forced it to retreat. The successful Islamic revolution in Iran is yet another factor which has played a pivotal role in changing the scenario. The dismemberment of the Supreme Soviet and emergence of about a dozen new states out of its womb is another encouraging factor. If the Afghans can fight against a su-

perpower Iran can push the other back, and the Central Asian Muslim Republics can regain their status, why can't the Kashmiris resist the usurpation of India? The spark for freedom which always existed in the hearts of the people and which erupted in the early 80's in the form of an organized freedom movement, has engulfed, the entire Kashmir. The men, women and children have decided to sacrifice everything — their life, property, and honour and modesty for independence. It is against this background that empty-handed freedom fighters in Kashmir are at war with the fully-equipped Indian forces. India never had a moral claim for its control on Kashmir and has now lost, whatever civil or military control it had over the State except that people are besieged by the forces in and around the State boundary. India has left no stone unturned in accusing Pakistan as being a terrorist state and holding it responsible for her failure to control and curb the indigenous insurgency of Kashmiris.

Keeping in view the track record of Indian attitude towards Kashmir and Pakistan and its hegemoneous designs in the subcontinent, the only option left for India to save its face is to rage a war against Pakistan, so as to deprive the Kashmiris of their legitimate political and moral support from Pakistan and thus strangulate the only voice raised against Indian atrocities in Kashmir. India is hounding to ignite the situation for resorting to a war, so as to save herself from the ignominy it is facing in Kashmir. In case of war between these two states, they will throw all that they have in their military stores upon each other. The neighbouring countries cannot keep themselves aloof. What more is required to endanger international peace and security? And, what else is required to satisfy Boutros Ghali to invoke the provisions of Article 39 and 40 of Charter-VII of the Charter in the given circumstances? The Articles respectively read as:

Art. 39: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42 to maintain or restore international peace and security";

Art. 40: "In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Art.39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims

or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures".

Was the action against Iraq, under Charter-VII of the Charter, taken after its acceptance of the Security Council resolution? Has Libya accepted the autocratic decisions of the Security Council and the other day's resolution imposing sanctions against her? More so, when Charter-VII of the UN Charter has no nexus whatsoever with the charge levelled against Libya. Do the provisions of the Charter not oblige the UN to take notice of all the events threatening international peace? Is that jurisdiction not inherent and conceded by its members to the UN through Article 24 of the Charter, which reads as:

> "In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility, the Security Council acts on their behalf".

Besides the above general powers of the UN, the Secretary General has special powers under Art.99 of the Charter to bring to the attention of the council, any matter which threatens the maintenance of international peace and security. The provision reads as:

> "The Secretary General may bring to the attention of the Council any matter which in his opinion may threaten the international peace and security".

When two states, i.e., India and Pakistan, charge each other with the violation of Human Rights, obligations under UN Charter and usurpation of a territory against the will of its people over which both the states have undergone devastating wars, not once, but thrice; does that not threaten international peace and security? Burtholomive representative of United States has rightly testified that India and Pakistan are at the verge of war over Kashmir.

Is the Secretary General, despite the above, not bound to invoke his authority personally to bring the issue to the notice of the Council. The Secretary General is holding an elected office, not a pleasure post.

Be that as it may, the Honourable Secretary General may refresh his sweet memory and vocabulary by the following paragraphs of Security Council resolutions dated Jan. 20, 1948, and April 21, 1948, declaring the situation in Kashmir as endangering international peace and security. Their relevant portion read as:

> "Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency", and

> "Considering that the continuation of the dispute is likely to endanger international peace and security".

The following opening paras of the resolution adopted by the United Nations Commission for India and Pakistan on August 13, 1948, further elucidate the position:

> "Having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir and being of the opinion that the prompt cessation of hostilities and the correction of conditions, the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation; Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal".

Human memory may be short, but facts cannot be belied when they vividly speak. The hard facts must be taken note of Mr. Boutros Ghali must not allow the old saying, "Till truth reaches destination, its lies would have created a havoc", to come true.

Courtesy: Nidayi Mashriq Srinagar, July 4, 1992

Section - D

SPECIAL STATUS OF JAMMU & KASHMIR: Its Genesis and Development-I

B. P. Sharma

The instrument of Accession with the Indian Union was signed by the late Maharaja Hari Singh on October 26, 1947. The special Status within the Indian Union was given by the parliament by adoption of Article 370 on October, 17, 1949. Then what status this State enjoyed for two years between the signing of the Instrument and the adoption of Article 370?

There has been some confused thinking and misinformed criticism about the various events that took place during and after this period. It is therefore, proposed to set the record straight in the series of five articles.

Enactment of Article 370 was not the beginning of the Special Status, it was, in fact culmination of a process which started immediately on the signing of the Instrument of Accession and the various national and international compulsions that arose between October 26, 1947 and October 17, 1949.

Immediately after acceptance of the Instrument the Government of India appointed Kanwar Sir Dalip Singh as "Agent" of the Government of India in Jammu and Kashmir. This was the first step towards a Special Status.

Another fact worth notice is that when the Constituent Assembly of India was formed a number of States were given representation right from the very beginning and they took full share in the framing of the Constitution of India. It was only in June, 1949, when the Indian Constituent As-

sembly was passing through its final stages that Jammu and Kashmir State was given representation. However, even before this, the right to have its own Constituent Assembly was conceded in favour of Jammu and Kashmir — a right which no other acceding State enjoyed.

Some confusion has been caused by the statement that the Instrument of Accession signed by Maharaja Hari Singh differed from those signed by other States acceding with Indian Union. This was not so. The text of the Instrument forms a part of the Indian Independence Act and no provision existed to change even a word of it. All the States acceded in three subjects only as provided in the Act, namely — Defence, External Affairs and communications.

Assurance to Rulers

In this connection the assurances held out to the Rulers of the Indian States by the Viceroy, Lord Mountbatten and by Sardar Patel will be read with interest.

On July 25, 1947, the Viceroy, Lord Mountbatten addressed, the Chamber of Princes to allay their fears and to advise them to link their future with either of the two Dominions they liked. He made it quite clear that the States were required to accede to the Dominion in three subjects only namely, Defence, External Affairs and Communications. Lord Mountbatten referred to apprehensions of some of the Rulers that the Central Government might attempt to impose financial liability upon the States or may even encroach upon their sovereignty. The Viceroy said:-

> "The draft Instrument of Accession provides that the States accede to the appropriate Dominion i.e. three subjects only without any financial liability. Further that the Instrument contains an explicit provision that in no other matters has the Central Government any authority to encroach on the internal autonomy or the sovereignty of the States".

Earlier in a policy statement issued on July 5, 1947, Sardar Patel has assured the Princes on behalf of the Government of India in the following words:

> "We ask no more of them than accession in these three subjects in

which common interests of the country are involved. In other matters we would scrupulously respect their autonomous existence".

While a large number of States joined the Indian Dominion on or before August 15, 1947, Maharaja Hari Sing took no heed of the advice of Gandhiji, or Mountbatten and allowed the sands of time to run out. Hari Singh knew fully well the mood of Pandit Jawaharlal Nehru when, after his arrest at Kohala in June, 1946, he had declared:-

"Highnessess and Excellencies do not count in the new conditions of India and the mood of the people".

Added to this were the pre-conditions Pandit Jawaharlal Nehru suggested, particularly the release of Sheikh Mohammad Abdullah and to gain his goodwill and cooperation. On the basis of reports received by him that Pakistan was planning to mount an attack on Kashmir, Pandit Nehru in his letter dated September 27, 1947, to Sardar Patel said:-

"It seems to me urgently necessary, therefore, that the accession (of J & K) to the Indian Union should take place early. It is equally clear that to me that this can only take place with some measure of success after there is peace between the Maharaja and the National Conference and they cooperate together to meet the situation. This is not an easy task; but it can be done chiefly because Abdullah is very anxious to keep out of Pakistan and relies upon us a great deal for advice — I do not think it is possible for the Maharaja to function for long if no major section of the population supports him".

Pandit Nehru also mentioned his talk with Mehr Chand Mahajan (who was tipped to take over as Prime Minister of J & K) and added:-

"But I fear he only partly appreciated that what I said I do not know what advice you gave to him your advice will naturally go a long way either to the Maharaja or to Mahajan".

Pandit Nehru requested Sardar Patel to take "some action to force the pace and to turn the events in the right direction", as the "Maharaja cannot make up his mind easily". Concluding he said:-

"I would again add that time is the essence of the business and things

must be done in a way as to bring about the accession on Kashmir to the Indian Union as rapidly as possible with the co-operation of Sheikh Abdullah".

Sheikh Abdullah, it will be recalled, had remained the constant headache of Maharaja Hari Singh, ever since July 13, 1931. He had been arrested several times between 1931 and 1946. He was sentenced to 3 years imprisonment for launching the "Quit Kashmir" movement in 1946 and the Maharaja was in no mood to release him ever on the advice of Mahatama Gandhi who met the Maharaja at Srinagar in July, 1947. The Maharaja however, partly accepted Gandhiji's advice, removed his Prime Minister, R.C. Kak, and appointed General Janak Singh as interim measure. Though Mehr Chand Mahajan formally took over as Prime Minister on October 15, 1947, he met the Maharaja, several times to impress upon him the necessity of releasing Shiekh Abdullah. He utilised the services of Thakur Nichant Chander (brother of the Maharani) to have talks with the Shiekh. Finally Sheikh Abdullah signed the letter drafted by Mehr Chand Mahajan himself, declaring his loyalty to His Highness person and throne. The letter dated September 26, 1947 inter-alia said:-

> "In spite of what happened in the past, I assure your Highness that myself and my party have never harboured any sentiment of disloyalty towards your Highness" person, throneor Dynasty.The developmentof thisbeautifulcountry and the betterment of its people is our common aim and interest and I assure your Highness the fullest and loyal support of myself and my organization. Not only this but I assure Your Highness that any party, within or without the State which may attempt to create any impediments to our efforts to gain our goal will be treated as our enemy and will be treated as such".

So the "Lion of Kashmir" after sixteen years of agitation against the autocratic rule of the Maharaja ultimately declared his loyalty to the Maharaja's person, throne and dynasty.

What prompted Sheikh Abdullah to sign the loyalty pledge? His lust for power or his earnest desire to save Kashmir from a common enemy? This is a subject which requires a separate study. Anyway, this satisfied the ego of Maharaja Hari Singh who ordered the release of Sheikh Abdullah and all of his associates arrested during the "Quit Kashmir" movement. The

Sheikh was released on September 29, 1947.

The arrest of the would-be-Prime Minister of India, Pandit Nehru, in June, 1946 for defying a ban on his entry into hisDominion and the humiliation to which Sheikh Abdullah was subjected to, are the two important factors which shaped the future history of Jammu and Kashmir.

Courtesy: Kashmir Times, May 27, 1991.

SPECIAL STATUS OF JAMMU AND KASHMIR
Its Genesis and Development - II

B. P. Sharma

So obsessed was Maharaja Hari Sing with the idea of creating his independent State as a "Switzerland of the East" that he treated even the Indian National Congress and its leadership as "foreigners" His clever Prime Minister Kak tried to create a Halo around him by asking the Revenue Officers to arrange dispatch of "loyalty telegrams" to the Maharaja from all Jagirdars, Landlords, Zaildars and Lumberdars. This was to give a feeling to His Highness that Sheikh Abdullah was not the only public leader in the State. In addition Kak sent word to the Revenue Officers all over the State that the Maharaja would hold a Darbar-i-Aam at Srinagar on July 15, 1947 which should be attended by all Jagirdars, Lumberdars etc.

Dictation Unacceptable

In course of his address to the loyal subjects gathered at the Darbar the Maharaja declared:-

> "But our concern for the progress of India does not imply acceptance by us of dictation in our internal affairs, particularly when such a course entails interference with the full and free operation of the law and thereby endangers the security and orderly course of life to which every peaceful and law-abiding citizen is entitled.

Reference may be made here to two adjournment motions moved in the Praja Sabha, one by the leader of the Muslim Conference Group and the other by a Hindu member from Jammu.

Choudhuri Hamid Ullah Khan on September 16, 1946, moved an adjournment motion expressing alarm caused among Muslims of the State by the reports that the Prime Minister of Kashmir had given an undertaking to Sardar Patel that he will implicitly follow the policy of the Indian National Congress in the administration of the State and that he will suppress all tendencies towards the growth of Pakistan ideology in the State."

After the Congress Working Committee passed its resolution on Kashmir at its meetings on September 25, 1946, Dr. Balram Das, an elected Hindu Member from Jammu moved an adjournment motion against the "attempt made by the Congress to interfere in the internal affairs of the State".

In both the cases the Prime Minister, Kak referred to the Maharaja's declaration of policy at the Darbar-i-Aam and the adjournment motions were withdrawn.

Even in his covering letter addressed to Lord Mountbatten dated October 26, 1947, Maharaja Hari Singh made a frank admission that his State being contiguous with both India and Pakistan and also having a common boundary with the U.S.S.R. and with China a fact which cannot be ignored in their external relations by India and Pakistan. He added:

"I wanted to take time to decide to which Dominion I should accede or whether it would not be in the best interests of both the Dominions and of my State to stand independent, of course with cordial relations of both". He however, concluded:

> "With the conditions obtaining at present in my state I have no option but to ask for help from the Indian Dominion".

When Maharaja Hari Singh signed the instrument of Accession he did not ask for any special status nor was any such demand made by Sheikh Abdullah at that time. The Maharaja enjoyed sovereign powers and according to the Independence Act was the sole authority to decide about the accession. The question of making any further reference to ascertain the wishes of the people therefore, did not arise.

Disputed Territory

The first blunder India committed was that it gave official recognition to accession being a subject of dispute needing its final settlement by reference to the people. To quote the exact words of Lord Mountbatten's letter dated October 27, 1947 to the Maharaja:-

> "In circumstances mentioned by Your Highness, my government has decided to accept the accession of Kashmir State to the Dominion of India. In consistence with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession would be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order has been restored in Kashmir and the soil cleared of the invaders, the question of the State's accession should be settled by a reference to the people".

Prof. Balraj Madhok rightly says in his book "*Bungling in Kashmir*" that Lord Mountbatten made the suggestion about plebiscite merely to placate Pakistan and Nehru accepted it for the same reason whatever the reasons and motives behind the offer may have been the fact remains that this offer of plebiscite lies at the root of the complications that made a purely military question one of the most difficult political questions which has been plaguing Indo-Pak relations with international ramifications ever since". (page 84).

Mountbatten's Evil Influence

Under the evil influence of Lord Mountbatten, Nehru brushed aside the sane advice of Mahatama Gandhi and decided to take the complaint regarding Pakistani aggression to the Security Council.

It was only after taking the final decision that Maharaja Hari Singh was "informed" by Nehru. In his lengthy letter dated December 1, 1947 to the Maharaja, Pandit Nehru Said:

> "You must have seen the draft proposal which were discussed by us with Mr. Liaquat Ali Khan. These involve Plebiscite under U.N.0. I know that you do not like the idea of a plebiscite, but we cannot do away with it without harming our cause all over the world. We are

found down to that proposal provided, of course, there is a settlement".

Again on December 21, 1947, Nehru wrote to Hari Singh on the subject. He said"-

"Our intention is to make this limited reference to the UNO without committing ourselves in any way. Meanwhile, of course, we shall continue to fight the invader and to drive him back. The reference will not stop us from our present activities in anyway. But once reference is made it is possible that other developments might take place for which we have to be prepared".

Concluding Nehru said that "Sheikh Abdullah and Bakshi Ghulam Mohammad arrived here last night and I have informed them of the proposed action of our".

In January 1948, India lodged its complaint to the Security Council, against all their expectations of Pakistan being declared an aggressor, the Security Council relegated the real issue to the background and brought other extraneous issues raised by Pakistan within the purview of the commission.

Without going into the details of the events, it may be said without fear of contradiction, that the reference to the Security Council proved an utter bankruptcy of statesmanship of Pandit Nehru.

Maharaja Perturbed

Maharaja Hari Singh was however, very sore over the shape of events at the Security Council, in a lengthy letter dated January 31, 1948, to Sardar Patel he said:-

"The feeling is gaining ground that the U.N. Security Council will take an adverse decision the National Conference leaders also feel that they may eventually be let down by accepting the decision of the Security Council and that would be disastrous for them. My position in this matter is also precarious. You know I definitely acceded to the Indian Union with the idea that Union will not let us down and the State would remain acceded to the Union and position and that of

my dynasty would remain secure I feel that the internal administration or the question of accession is wholly foreign to the jurisdiction of the Security Council. It was a wrong step in going on the limited issue to the Security Council and then agreeing to the enlargement of the agenda before the Council. As soon as the Council enlarged the agenda, the Indian Union should have withdrawn the reference and ended the matter".

In utter disgust at the bungling that had and was taking place, the Maharaja also added:-

"There is an alternative possible for me and that is to withdraw the accession and that may kill the reference to the U.N.O. because the Indian Union will have no right to continue the proceedings before the Council if the accession is withdrawn".

Partition Proposal

In October, 1948 Pandit Nehru went to London to attend the Common - Wealth Prime Minister's Conference. At a lunch on October 19, he met Ernest Bevin (Foreign secretary), Sir Stafford Cripps (Chancellor of Exchequer in Attlee Government) and Sir Noel Baker, Bevin brought in the question of Kashmir. During the talks Bevin suggested a meeting of Nehru with Liaquat Ali Khan.

In his letter dated October 27, 1948 to Sardar Patel, Nehru gave a summary of his discussions with the British leaders and the Prime Minister of Pakistan. He wrote:-

"I might mention that the position I have taken up about Kashmir is either full acceptance of the U.N. Commission's resolution on cease fire, or a petition on the lines we have previously talked about, i.e. Western Poonch etc., Gilgat, Chitral, most of Baltistan etc. to go to Pakistan, neither of these is acceptable to Liaquat Ali Khan.

Courtesy: Kashmir Times, May 28, 1991.

SPECIAL STATUS OF JAMMU & KASHMIR: Its Genesis and Development - III

B. P. Sharma

Pandit Nehru began to realize that the reference of the Kashmir case to the Security Council was an ill-advised step whereby India had put her own head in the nose. There was much criticism in the Press and the Parliament.

One year after India had attained independence, Lord Mountbatten wrote a letter to Pandit Nehru. In his letter dated August 15, 1948, Mountbatten admitted his guilt. Extracts from his letter are quoted below:-

> "Although I have no right whatever to make any comments, let alone give you any advice now, I feel in away a continuing responsibility for the situation you are now faced with, for it was I who encouraged you to take the Kashmir case to U.N.O. .... I know that you (and I) have been criticised in India for having gone to U.N.O. because U.N.O. handled the matter in a way that caused disappointment in India. But in the comparatively detached atmosphere of London it is more than ever clear that the alternative before India were and still open are open war or a decision by U.N.O".

Advising Pandit Nehru not to declare a war, Mountbatten added:-

> "I know that you will instinctively shrink from taking such a course, but I also know that there are some of your colleagues in the Cabinet and the more noisy and unthinking elements in the country who will press you to declare war, I therefore, feel that it may be of some use if I enumerate again the disastrous consequences of such an action on the part of India. This will inevitably prejudice to India's future international position,indeed·U.N.O. might well outlaw her, in my opinion, naming her as the aggressor. What a paradoxical tragedy that would be".

So it was Mountbatten's advice regarding India's international position and his own prestige that guided Pandit Nehru in shaping his policy about Kashmir.

Another act of Pandit Nehru towards giving a Special Status to Jammu and Kashmir was keeping it outside the purview of the State Ministry much against the wishes of Sardar Patel. It is on record that Patel protested the bypassing of his Ministry in his letter to Gopalaswami Ayyangar, who brought the same to the notice of Nehru, who, in his letter dated December 23, 1947, to Sardar Patel, wrote:-

> "I do not appreciate the principle which presumably the States Ministry has in view in regard to his work. That Ministry, or any other Ministry, is not an imperium in imperio, jealous of its sovereignty in certain domains and working in isolation from the rest. If that was so then the Government would not be a close-knit organism working together with a common purpose, and the Prime Minister would have no function to perform. The present issue relates to Kashmir. This raises all manner of connected issues international, military and others which are beyond the competence of the States Ministry as such. That is why it has to be considered by the Cabinet as a whole frequently by various Ministers separately or together. And that is why I have to take personal interest in this matter as Prime Minister to bring about coordination of our various activities".

Paradoxically Pandit Nehru utilized Sardar Patel's statesmanship to achieve Maharaja Hari Singh's ouster from the State. This is also, in a way, related to the issue of Special Status and its reference appears necessary in this context.

Maharaja Hari Singh had agreed to give a share of administrative powers to Sheikh Abdullah strictly on the basis of Mysore model of administration. Actually this suggestion had been made by the Prime Minister of India who advised the Maharaja to form an Interim Ministry on the Mysore Model. Under the scheme of reforms adopted by the Maharaja of Mysore, he was to have a nominated Dewan to act as a liaison between him and the elected Ministry. The Dewan was to preside over the meetings of the Cabinet.

Constitutional Crisis

A constitutional crisis arose when Sheikh Abdullah refused to accept a nominee of the Maharaja to preside over the meetings of the Cabinet. The Maharaja insisted that Mehr Chand Mahajan should continue as Dewan if not as Prime Minister, the post he was holding at that time.

"I went back on my commitment when I agreed to give Sheikh Abdullah the designation of Prime Minister", wrote Maharaja Hari Singh to Gopalaswami Ayyangar, in the letter dated December 28, 1947, and added, "and I cannot appease him further on the point that he should preside and not the Dewan, who is a man of my confidence".

Concluding the Maharaja said:-

> "It is now for you to get Sheikh Abdullah to agree to my considered final views. I cannot stand more distress than I actually have, with half my people and half my country ruined. Sheikh Abdullah should be told that he cannot drive too hard a bargain. This is not in the interest of the either himself or the State. I have gone to a limit beyond which I cannot go".

Obviously Hari Singh did not visualise the fate awaiting him. Reacting sharply on the Maharaja's letter Pandit Nehru wrote to Sardar Patel:

> "The Maharaja, unfortunately, is terribly short-sighted and he has a way of doing the wrong thing. He has suffered sufficiently in the past by his own errors and yet he has not benefited by that lesson. I fear he will get into great trouble if he does not appreciate the present situation".

Finally Sardar Patel invited Maharaja Hari Singh and the Maharani to Delhi and had talks with them on April 29 and May 1, 1949, Sardar Patel suggested to the Maharaja that in view of the situation created by the reference to UNO and the plebiscite issue, it would be best for him to absent himself from the State and to make Yuvraj Karan Singh as Regent.

Maharaja Hari Singh in his letter dated May 6, 1949, informed Sardar Patel:-

> "However once again putting my complete trust in your judgement and benevolent intention towards me, might be prepared to fall in with your wishes and to absent myself from the state for a period of three or four months in consideration of the fact as emphasised by you, namely, reference to UNO, and the plebiscite issue".

Hari Singh, however, wanted an assurance that this step is not prelude to any idea of my abdication. He also said that his remaining outside the state "for reasons of health, will not be believed by anybody and is likely to give rise to many misgivings and speculations within and outside the state. "For every body in bad health Kashmir is considered to be the best health resort and it will certainly look strange if I went outside the State giving out that I am doing so for reasons of Health".

Suggestions that some other reason which may be plausible add may also at the same time not compromise my dignity and position should be given out Maharaja Hari Singh proposed that "Government of India should find a suitable position for me in Delhi where my services may be utilized in a fitting manner".

Sardar Patel in reply said:

> "I appreciated what your Highness says in regard to the reasons for your remaining outside the State, but I feel it would be best just to say that your Highness has decided, after the strain of the last so many months and continued ill-health, to stay out of the State for a few months. The actual period need not be stated".

Ultimately under pressure from the Government of India and the "Special Status" Sheikh Abdullah enjoyed, Maharaja Hari Singh issued a proclamation on June 20, 1949, that on reasons of health, he had decided to leave the State "Temporarily appointing Yuvraj Karan Singh as Regent. Justice Anand has rightly said:-

> "Though this proclamation purported to have been issued on the grounds that Sir, Hari Singh was leaving the State temporarily" in actual effect it amounted to his abdication and the installation by him of Yuvraj Karan Singh as the ruler of State. This act of the Maharaja was the last official act before he left the State never to return".

It goes to the credit of Maharaja Hari Singh that thereafter he lived a life a complete renunciation in Bombay till his death on April 26, 1961. He did not utter a word against the breach of faith he had suffered at the hands of those in power.

Courtesy: Kashmir Times, May 29, 1991

SPECIAL STATUS OF JAMMU & KASHMIR
Its Genesis and Development - IV

B. P. Sharma

The agonizing political uncertainty created by the plebiscite issue had considerably arrested the progress of the State towards social and economic development. The National Conference, under the leadership of Sheikh Mohammad Abdullah, felt that time had arrived for the State Government to take immediate steps to arrest the growing sense of suspense and uncertainty in the State. A meeting of the General Council of the party was convened in which Sheikh Abdullah sought a mandate for the Constituent Assembly for taking decision on all vital issues concerning the future shape and affiliations of the State. The General Council which met on October 27, 1950, passed a resolution which stated:-

> "The indecision and unrealistic procedure adopted so far has condemned the people of the State to a life of agonizing uncertainty. The All Jammu & Kashmir National Conference is gravely concerned and cannot any longer afford to ignore the perpetuation of these conditions of doubt and frustration. In the Opinion of the General Council, therefore, time has come when the initiative must be regained by the people to put an end to this indeterminate state of drift and indecision".

> "The General Council recommends to the Supreme National Executive of the peopie to take immediate steps for convening a Constituent Assembly based upon adult suffrage and embracing all the constituents of the State for the purpose of determining the future shape

of affiliations of the State of Jammu and Kashmir".

The importance of this resolution may be judged from the fact that it had world-wide reaction. The Anglo-U.S. block was so upset that it moved a resolution in the Security Council to prevent convening of such an Assembly. Sheikh Abdullah criticizing the Anglo-U.S. draft resolution asserted the right of the people of the State to decide their future through the Constituent Assembly.

The Regent, Yuvraj Karan Singh issued a proclamation on May 1, 1951 convening a Constituent Assembly for the State. The elections were duly held in September, 1951 and 75 members were elected from various Constituencies while 25 seats were kept vacant for the State Subjects living in areas held illegally by Pakistan. The first session of the Constituent Assembly was held at Srinagar on October 31, 1951.

It was indeed a great day for the people of Jammu & Kashmir who wanted to assert their sovereign authority and declare their reasoned conclusions regarding accession. Then what prevented Sheikh Abdullah from passing such a resolution in the Constituent Assembly? The Sheikh has been accused of having betrayed India on this score.

A dispassionate study of events will show that the Sheikh Abdullah was condemned unheard. Let readers hear what he has to say in his defence and judge for themselves where the fault actually lay.

In his autobiography, "*Attish-i-Chinar*", Sheikh Abdullah says:-

> "The Central Government permitted us, rather reluctantly, to convene a Constituent Assembly. But like a suspicious husband who mistrusts his beautiful and flam-boyant wife, it looked upon us with suspicion. When we actually inaugurated the Assembly, Pakistan took strong objection and lodged a complaint before the Security Council that India was attempting to bypass the Council's resolution regarding holding of a plebiscite and attempt would be made to declare a fait accompli by a resolution on the State Constituent Assembly. At that time Sir B.R. Rau was heading India's delegation of the Security Council".

Sheikh Abdullah adds:-

"Intervening in the debate twice, Sir B.N. Rau assured the Security Council that India was firm on its promise to hold a plebiscite in accordance with the resolutions of the Security Council. The Indian Constitution gives the right to every federating State to form an Assembly, therefore, we cannot prevent the people of Jammu & Kashmir from convening a Constituent Assembly or from expressing their opinion about accession, but India will not be bound to accept their decision. Another Indian delegate, Rajeshwar Dayal, also assured the Security Council that India had no intention of a back-door entry or of creating any impediments in the way of the implementation of the Security Council resolution".

Sheikh Abdullah relates an incident which took place when he along with Bakshi Ghulam Mohammad was sitting in the room of Pandit Nehru in New Delhi. Gopalaswami Ayyangar also happened to be there. This was just after the inauguration of the Constituent Assembly. Ayyangar proposed that we should pass a resolution ratifying the accession as final so that the need of holding of a plebiscite may not arise. This enraged Pt. Nehru, who, in an angry tone rebuked Ayyangar by saying that such an action will not be approved by him. India, he said, had made a commitment on an international level as also to the people of Kashmir that they will get an opportunity to decide about their future affiliations through a plebiscite conducted in a free and fair manner. We cannot go back on this promise".

Sheikh Abdullah further says that he was convinced that such a resolution, if passed and not honoured by India, will only bring the Constituent Assembly to redicule. He, therefore, dropped the idea. Sheikh Abdullah's statement finds a confirmation in "Nehru-Mukerjee and Mukerjee-Abdullah correspondence" of 1953.

Dr. Shyama Prassad Mukerjee firmly believed that India could accept no fair deal in the Security Council and that the State Constituent Assembly should pass a resolution in favour of accession to India and this may be considered sufficient for ascertaining the will of the people.

In his lengthy letter dated January 9, 1953 to Pandit Nehru he wrote:-

"I was told by Sheikh Abdullah that he and his colleagues were willing to adopt this procedure but you were not prepared to approve of it".

Pandit Nehru in his reply dated January 10, 1953 said:-

"You refer to Sheikh Abdullah telling you that he and his colleagues were willing to get their Constituent Assembly to pass a resolution about the State's accession to India, but I did not approve of it. This is partly true, but it refers to a particular time, when the Constituent Assembly first started functioning, this proposal was considered. Our advice then was that it would not be wise to pass this resolution immediately as this would lead to the conclusion that the Constituent Assembly has been called just for that purpose and not for other purposes".

This expression of "partly true" only expose the ficklemindedness of Pandit Jawaharlal Nehru. But Sheikh Abdullah was very free, frank and determined on this issue. In his letter to Dr. Mukerjee dated February 4, 1953, Sheikh Abdullah asserted:-

"We are prepared to pass the resolution, but the Government of India in its turn must be in a position to fulfil all the obligations flowing from such a decision. You will perhaps agree that in the event the Government of India declare that the decision of the Constituent Assembly is irrevocable, consideration that would weigh with it would come into conflict with the UNO. It is not in a position to withdraw the case. The alternative for India would be to withdraw from that organization and bear the odium of all other members. The question is whether India is in a position to stand in isolation particularly when all sympathies of foreign powers would be on the side of Pakistan. In this condition of isolation the risk of an armed conflict cannot also be over-ruled. In case the Government of India is prepared to take such steps in order to maintain the validity of the Constituent Assembly's decision, the decision can be taken without loss of much time. But if this cannot be done, may I ask what good will the resolution of the Assembly do if the political uncertainty about the State's future continues even after this? The fulfilment of a mere formality would not satisfy those who are anxious for a permanent settlement of the question".

However, this did not satisfy Dr. Mukerjee, who, in his letter dated February 13, 1953, wrote back:-

"True India gave an assurance to UNO that final accession would be determined in accordance with the will of the people. If that will today is expressed through a Constituent Assembly elected on adult franchise basis, no one logically or legitimately could challenge such a decision. The importance and urgency of this step cannot be minimized. Once it is known that his matter has been finalised, all doubts and fears about the future would disappear and all elements can jointly march forward for the rebuilding of the State of Jammu and Kashmir irrespective of all differences".

Obviously, Dr. Mukerjee wanted Sheikh Abdullah to pass such a resolution even if Nehru prevented him from doing so.

It must be clearly understood that it was Sheikh Abdullah who had initiated the move to pass a resolution in the Constituent Assembly to finally confirm the accession. But he met stiff opposition from Pandit Jawaharlal Nehru all along these years. This had made the Sheikh bitter.

Pandit Nehru, however, played the last card to put Sheikh Abdullah in the wrong before finally getting him arrested and removed from the political scene. Pandit Nehru arrived in Srinagar on May 16, 1953, for a week's rest before proceeding to London for attending the Commonwealth Prime Minister's Conference. Pandit Nehru's advice Sheikh Abdullah to call a meeting of the Constituent Assembly to pass a resolution finally confirming the accession.

At this stage Sheikh Abdullah refuses to oblige Pandit Nehru and frankly told him that in view of the commitments made by India at the International forum and repeated on several occasions, such a resolution, if passed now, would in no case be accepted by the Security Council as final will of the people of the Kashmir.

How sincere Pandit Nehru was when he made this suggestion to Sheikh Abdullah may be judged from the fact that within twelve days the arrest of Sheikh Abdullah, Pandit Nehru held talks in New Delhi with Liaquat Ali Khan, Prime Minister of Pakistan. The joint communique issued on August 20, 1953, not only confirmed existence of "Kashmir dispute" but also expressed their "firm opinion" that this should be settled in accordance with the wishes of the people of the State. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite.

"Even the date for appointing a Plebiscite Administrator by the end of April, 1954, was also fixed.

Courtesy: Kashmir Times, May 30, 1991.

SPECIAL STATUS OF JAMMU & KASHMIR
Its Genesis and Development - V

B. P. Sharma

When the Constitution of India was in the making the Central Government went of changing its policy towards the States. It wanted to have wider powers by curtailing the powers envisaged under the Cabinet mission plan. The Centre succeeded in completely integrating the states, excepting Jammu and Kashmir.

Explaining the relationship of the states with the Centre, Gopalaswami Ayyangar told the Parliament:-

> "The relationship of all, the states with the Government of India, till India became a republic, was based on the Instrument of Accession. But whereas in the case of other Indian states "Instrument of Accession" will be a thing of the past in the new Constitution. The states have been integrated with the Federal Republic accede or execute a document of Accession for becoming units of the republic. It could not be so in the case of Kashmir since that particular state is not yet ripe for this kind of integration, due to special conditions prevailing in Kashmir. In the first place there has been a war going on within the limits of Jammu and Kashmir state, part of the state is still in the hands of the enemies and in the second place the Government of India have committed themselves to the people of Kashmir in certain respects. They are committed themselves to the position that an opportunity will be given to the people of the state to decide for themselves the nature of their constitution".

It may be recalled that it was only in June, 1949, that four representatives of Jammu and Kashmir were nominated to the Constituent Assembly Of India. They were Sheikh Abdullah, Mirza Afzal Beig, Moulana Masoodi and Pandit Moti Ram Baigra.

"What will be the position of Jammu and Kashmir in the future Constitution of India". This was the question which engaged the attention of the Kashmir leadership. Sheikh Abdullah says:-

> "Talks on this question started between us and the Central leaders. On our side Bakshi Ghulam Mohammad, Mirza Beig, Mir Qasim and D. P. Dhar took part in the talks. After some time we arrived at the conclusion that the Indian leaders wanted to completely integrate the state, but we would not agree to go beyond the provisions of the Instrument of Accession".

Under the circumstances the makers of the Constitution decided to respect the wishes of the members from Jammu and Kashmir and to give a special status to the state within the frame-work of the Indian Constitution this Article 306-A (which afterwards became Article 370) was drafted by Ayyangar and negotiated with Sheikh Mohammad Abdullah and his associates.

The position is summed up in the pamphlet "India and Kashmir-Constitutional Aspect" as follows:-

> "In these negotiations it was made perfectly clear by the State Government that it was for the Constituent Assembly of the state to frame the constitution of the state and in any provision that may be made in the constitution of India regarding Kashmir, the basis should be the Instrument of accession and that till the constituent assembly of the state consented to accede in any other subject to the Union, the relationship between India and the State should be limited to the subjects specified in the Instrument of accession. A lengthy correspondence took place between the state government and the Government of India on this subject and in the end the position taken up the state was agreed to and Article 370, which is based on the instrument of accession, found place in the constitution of India. Article 370 is nothing more than a device to continue the relationship of the state with the Union on the basis of instrument of accession under which

the state had acceded to the dominion of India before the inauguration of the republic". This is fully borne out by what Sardar Patel had said in this matter in his speech in the constituent assembly on October 12, 1949:

> "In view of the special problem with which Jammu and Kashmir Government is faced, we have made special provision for the continuance of the relationship of the state with the Union on the existing basis".

In this letter dated February 13, 1953, to Sheikh Abdullah, Dr. Sharma Prasad Mukerjee praised Sardar Patel for the great task of integration of the Indian States, which was completed in bloodless manner in all cases, with three exceptions, Jammu and Kashmir, Hyderabad and Junagarh. Ultimately Hydrabad and Junagarh were also brought into India. All these states had the same theoretical rights as your state to decide matters for themselves. He advised the Sheikh to fall into line with other states.

Sheikh Abdullah in his reply dated February 18, 1953, said:-

> "All these considerations were fully weighed when Article 370 was devised. You have referred to Sardar Patel's successful integration of Indian states. May I point out that the special position that our state enjoys at present has been the result of the far-sightedness of the Sardar. He was in fact instrumental in evolving the present basis of the state's relationship with the Union. Article 370 was incorporated into the constitution under his guidance and at a time when Shri Nehru was away from India".

Thus the constitutional position which emerged was that though Jammu and Kashmir was included in the first schedule of the constitution of India as one of the part "B" state the only article of the Indian Constitution which applied to the state of Jammu and Kashmir by their own force were Article 1 and 370. As Mr. D.K. Sen has remarked in his "comparative study of Constitution of India that the constitution applies to Jammu and Kashmir not proric vigore but by virtue of instrument of accession and subject to terms and condition".

As I have said before, Sheikh Abdullah is accused of all the ills that Article 370 has brought in its wake. The blame for not passing a resolution

in the state constituent assembly declaring the finality of the accession is also levelled against him. It is, however, forgotten that it was under his dynamic leadership that the Delhi agreement of 1952 was finalised and the existing status of Jammu and Kashmir in the Indian Union was approved by the State constituent assembly on August 19,1952. This was admitted by Pandit Nehru also in his letter dated February 12, 1953 to Dr. Mukerjee. He said:-

> "As a matter of fact, the action that the constituent assembly of Jammu and Kashmir has already taken in regard to various matters. More, especially in confirming the agreement arrived at with the government of India, is itself much more than confirming the previous accession. It goes beyond it in many ways".

The critics of Sheikh Abdullah conveniently forget that the constitution of the state was finalised when Sheikh Abdullah was behind the bars and Bakshi Ghulam Mohammad who had been hailed as the "saviour of Kashmir" and loudly acclaimed for Article 3 of the constitution providing that "the state of Jammu and Kashmir is and shall be an integral part of the Union of India" was in power.

As aptly put by Prof. Hari Ram in his well researched and authoritative book "Special Status in Indian Federalism".

> "Irrevocable accession with Special Status of Kashmir remained the keynote of the Valley's politics during Bakshi's Premiership. Bakshi remained a champion of the States irrevocable accession to India, but did not surrender any of the powers and privileges guaranteed under Article 370."

Thus we find that the edifice of Article 370 which was constructed by Sheikh Abdullah was actually cemented by Bakshi Ghulam Mohammad. Instead of getting eroded by passage of time, as Pandit Nehru wishfully expressed the Article has become a permanent feature, though described as "temporary" on the Constitution.

Before concluding this article, let me refer to yet another misunderstanding regarding the Special Status. Some people believe that the parliament has the power to amend the Constitution and as such can scrap Article 370 by passing a Bill under Article 368 of the Constitution. They forget that

the second provision to Article 368 places a limitation on the powers of the Parliament. It reads:

> "Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under Clause (1) of Article 370".

And Article 370 itself limits the powers of the President of India vise clause (3) of the Article which is quoted below:-

> "(3) Notwithstanding anything in the foregoing provisions of this article the President may by public notification declare that this Article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:
>
> Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification".

In conclusion I agree with Prof. Hari Ram that "the deletion of Article 370 would also freeze the Centre — State relations at the existing level and halt the process of further integration. If any, with India. What is required is a sense of allegiance towards Indian broader in spectrum alongside the regional loyalties in the State, both being complementary in a sound federal system".

Courtesy: Kashmir Times, May 31, 1991.

WHY ARTICLE 370 MUST GO

K. R. Malkani

Ek Desh Mein Do Nishan,
Ek Desh Mein Do Vidhan,
Ek Desh Mein Do Pradhan,
Nahin Chalenge, Nahin Chalenge.

(We can't have two flags, two constitutions
and two Heads of State in one country).

It was in these ringing notes that Jana Sangh — and its state affiliate, the Praja Parishad — conducted the Kashmir agitation in 1953. Jana Sangh President, Dr. Shyama Prasad Mukerji, launched the agitation by entering the State without the then required entry permit. He was arrested for violating the permit system. He died in jail — in mysterious circumstances. But his sacrifice did not go in vain. His martyrdom released forces that made the State and Central Governments take many steps to end the so-called special status of Jammu & Kashmir (J&K) State. For example, one of the first thing to go was the abnoxious permit system itself. When today, therefore, the BJP asks for deletion of Article 370 of the Constitution, giving a special status to Kashmir, it is only asking for the completion of the task begun in 1953.

Not Sacrosanct

It is too late in the day for anybody to argue that Article 370 is something sacrosanct and therefore, not to be touched. Part XXI of the Constitution is titled "Temporary, Transitional and Special Provision" and this Part includes Articles 369 to 392. Indeed Article 379 to 391 were deleted by the seventh amendment of the Constitution, as early s 1956. Even the title of Article 370 reads: "Temporary provisions with respect to the State of Jammu and Kashmir". Mr. Gopalaswamy Ayyangar, Union Cabinet Minister and former Dewan of Jammu and Kashmir State, while placing Article 370 be-

fore the Indian Constituent Assembly, had expressed the hope on behalf of "everybody here that, in due course, even Jammu and Kashmir will become ripe for the same sort of integration as has taken place in the case of other states". It is this hope that nationalist India wants fulfilled after 40 years of waiting.

It must be clearly understood that Jammu and Kashmir State signed the same Instrument of Accession as all the other 500-odd Indian States. Jammu and Kashmir was given a special status for the time being only because the matter was then before the United Nations — and Mr. Nehru had suggested a plebiscite. The plebiscite idea died full 30 years ago and the Kashmir issue is as dead as the dodo in the UN. There is, therefore, no case for continuing the anomalous special status of one particular state.

When pressed to delete Article 370, Prime Minister Nehru had said more than once that it will "erode away". And it has, indeed, been eroding away. The State's National Conference flag was wrapped up. The Sadar-i-Riyasat was redesignated as Governor and the Wazir-i-Azam, as Chief Minister — like in all other States. Nor were these changes confined to nomenclature and symbols. Within two years of the adoption of the State Constitution in 1957, the Jurisdiction of the Supreme Court, the Planning Commission, the Finance Commission, the Election Commissioner, the Census Commissioner and the Comptroller and Auditor General was extended to the State. The old Customs barrier was gone. The services were integrated. Jammu and Kashmir became a constituent of the Northern Zonal Council. All these decisions were taken by the Government, without any prior reference to the State Assembly. The State Constituent Assembly of course had ceased to exist after the completion of its labours on January 26, 1957.

More, in 1964, the Government of India applied to Jammu and Kashmir the provisions of Article 356 and 357 of the Indian Constitution by a Presidential Order, without a reference to the State Government. These are the Articles that provides for the Central dismissal of a State Government — and enactment of laws for the State by the Centre: So much for the "special status" of Jammu and Kashmir.

Indeed, for all practical purposes the special status of Jammu and Kashmir is dead — and the State is on par with other States in all essential respects. Today, Article 370 is an empty shell, with little or no content. If even then the BJP asks for its deletion, the reasons are psychological and

not constitutional. The fact that Article 370 apparently gives special status to any State, creates a divisive atmosphere in the country; it encourages some Kashmiris to think that they could also opt for Pakistan; it also encourage some other States to ask for a special status. The fact that the special status State is also the only Muslim-majority State, puts a premium on communalism in the country. And then of course there are some subjects — e.g. Labour — still wholly left to J & K, but not to other States. Bills on these subjects begin with the words that the said legislation will apply to the whole country "except Jammu and Kashmir". Some years back, whole India was shocked to hear that the President of India could not acquire a plot of land in Kashmir for construction of a post office — because he was not a citizen, of the State: Ifs and buts like these raise a psychological wall between this State and the rest of the country; they also deprive the State's people of some of our welfare legislation. When, therefore, the BJP urges deletion of Article 370, it has in mind removal of this wall and extension of as much protection — and as many rights — to the State's people as to the people in the rest of the country. At the same time repeal of Article 370 will not take away any special powers of any substance from the State Government — for the simple reason that it does not have any such powers. The net result is that while nationalist India resents the divisive wall Kashmir feels cheated.

It could be argued that Kashmiris are unhappy enough even when their State has some special rights under Article 370, denial of this special status will make them unhappier and angrier still. As a totem, Kashmiris certainly hug this Article. But too much need not be read into this totemism — or in their occasional lapses into shouting slogans like "Pakistan Zindabad". Unhappy people will raise unfortunate slogans. But Pakistan is the last thing they want. They know that if Kashmir were to go to Pakistan, it would be flooded by Punjabis, even as Sindh has been flooded with non-Sindhis, reducing them to a minority in their own home.

Real Unhappiness

The Kashmiris unhappiness has nothing to do with the erosion of Article 370 or with their wanting to go to Pakistan. They are unhappy because the State and Central Government have cheated them of their basic rights. For examples with the admitted exception of 1977, the State has never had free and fair elections. In 1952 elections, the nomination papers of 44 out of 49 Bharatiya Jana Sangh candidates were rejected, forcing the

party to boycott the elections. The ruling party won all the seats without a single contest: As late as last year, the country saw blatant mass rigging in the Udhampur Lok Sabha by-election.

Kashmiris are also unhappy that the Centre has been monkeying with the State Government under Article 356. A few years back, in a mid-night coup, Governor Jagmohan — with an Army General sitting by his side, by way of warning — dismissed the Farooq Abdullah Government, after the Congress (I) had organized a dozen defections: All these defectors were then sworn in as ministers — forgetting all about the State's Anti-Defection Law.

More recently, the Centre forced a Congress (I) coalition on Dr. Farooq — against the wishes of the people. And all this time, some Sarkari favourites have been lining their private pockets with public funds in a big way. Is it any wonder that Kashmiris have no respect for either the State or the Central Government?

When the BJP wants Article 370 to go, it only wants to remove a psychological wall; it does not want either Jammu and Kashmir or any other State to lose its autonomy, which is its due in a proper federation. It is interested in the substance of power for all States, and not in the shell of speciality for one or two States. All these years the Congress — and now the Congress (I) — Government at the Centre has been toppling State Governments as though they were so many puppets. Even a Congress Chief Minister like Vasantroa Naik was driven to complain that Maharashtra had been reduced to a "fourth class municipality". Actually State after State — including Jammu and Kashmir — has been treated in this fourth class manner. Considering how often Article 356 has been misused to dismiss State Governments perhaps only its deletion will secure State autonomy. And considering also how often Congress agents have been appointed as Governors to harass Non-Congress State Government, Article 153, laying down that "There shall be a Governor for each State" should have the added stipulation —" and he shall be appointed in consultation with the concerned State Government".

So amended, the Constitution will give all States more powers and greater stability than what Jammu and Kashmir has even under its so-called special status. If these facts are explained to the people and Government of Jammu and Kashmir, even they would happily welcome the change. All

men interested in an honest federation — and not in a fake special status for this or that State — should exert for deletion of Article 356 and amendment of Article 153——and not for retention of a vacuous and temporary provision like Article 370.

Courtesy : Indian Express, June 10, 1989.

ARTICLE 370 CANNOT GO

Saifuddin Soz

Article 370 of the Constitution of India has been a subject of great controversy even though the founding father of the Constitution had never intended it to be so.

In the recent past, the Bharatiya Janata Party (BJP) has been in the forefront, seeking abrogation of this Article from the Constitution.

When I protested in the Lok Sabha on March 7, 1989, against the resolution adopted by the BJP at its party convention at Udaipur in the first week of March, 1989, seeking abrogation of Article 370 of the Constitution little did I realise that it was not merely a political ploy adopted by the BJP as it used to employ on several occasions earlier. It took me some time to appreciate that this time the BJP was going to play the abrogation of Article 370 as the main card in its stance of putting in a big effort for sizable electoral gains.

Soon after my protest in the Lok Sabha, the BJP stated its position firmly when its member, Mr Janga Reddy, through a statement under Rule 377 on March 9, 1989 took exception to my protest and stated inter alia that "the BJP holds that Article 370 was conceived by our constitution makers only as a temporary provision and specifically described as such in the Constitution". The member further lamented in the statement "that its continuation even after 40 years of independence is not only a psychological barrier between Jammu and Kashmir State and the rest of the country, but is also encouraging separatist forces in Punjab and other regions for those regions. The BJP, therefore, holds that the earlier the provision goes the better".

The contention of the BJP leaders, both inside and outside Parliament, that this provision was conceived as a temporary measure, is falla-

cious. The provision is transitory, but in no case temporary and liable to be removed. The constitution makers had to be very cautious at that point of time when this provision was being incorporated in the Constitution.

Provision of a permanent measure could have jeopardized India's stand on Kashmir at the United Nations.

Equally important is the debate in the Constituent Assembly of India when Article 370 was moved for consideration. It was put forth in the Assembly as Article 306 A. Moving for the adoption of the Article in the Constituent Assembly on October 17, 1949, Mr N. Gopalaswamy Ayyangar justified the special treatment given to Kashmir.

As A.G. Noorani says in his book "The Kashmir Question" Ayyangar argued in the Assembly saying, "We are still entangled with the United Nations in regard to Jammu and Kashmir and it is not possible to say now when we shall be free from this entanglement. That can only take place when the Kashmir problem is satisfactorily settled". It was, therefore, wise on the part of the constitution makers that they declared Article 370 as a transitory provision in the Constitution.

The constitutional position in respect of Article 370 is that while it is a transitory provision, it cannot be abrogated either by Parliament or through a Presidential Proclamation without the express consent of the people of the State. The Constitution of India came into force on January 26, 1950. And, Article 370 was to cover the case of Kashmir alone. During the debate in the Constituent Assembly of India, the then Minister of States in India, Sardar Patel, declared, "In view of the special problem with which the Jammu and Kashmir government is faced, we have made special provisions for the continuance of the State with the Union on the existing basis".

As justice A.S. Anand rightly observes in his book "The Development of the Constitution of Jammu and Kashmir", "the existing basis" was the basis of "Instrument of Accession" and the "Special Provision" was embodied in Article 370 of the Constitution of India which has been described as "temporary provision" in the Constitution of India.

Justice Anand observes further, "The temporary nature of the Article arises merely because the power to finalize the constitutional relationship between the state and the Union of India had been specifically vested in the

Jammu and Kashmir Constituent Assembly. The Constitution of India clearly envisaged the convening of a Constituent Assembly for Jammu and Kashmir State and also provided that whatever modifications, amendments or exception that might become necessary either to Article 370 or to any other articles in the Constitution of India in their application to Jammu and Kashmir State were subject to the decision of that Assembly. Therefore, the temporary provision does not mean that the Article is capable of being abrogated, modified or replaced unilaterally".

Kashmir Debate

The then Prime Minister of the Jammu and Kashmir State, Sheikh Mohammad Abdullah, declared while participating in the debate in the Jammu and Kashmir Constituent Assembly on August 11, 1952. "I want to make it clear that any suggestions of altering arbitrarily the basis of our relationship with India would not only constitute a breach of the spirit and letter of the Constitution, but it may invite serious consequences for a harmonious association of our state with India".

It is pertinent here to discuss briefly why Article 238 of the Constitution of India was not made applicable to the Jammu and Kashmir State. Since the Jammu and Kashmir State became a part of India after the execution of the Instrument of Accession, Clause (1) of Article 370 provided for the application of Article 1 of the Constitution of India, which defines the territory of India, to the Jammu and Kashmir State. The State was shown in the Constitution as a part B State (The distinction between part A, B and C has since been abolished) but the provisions of Article 238, which governed the relationship of Part B States with the Union of India, were not made applicable to the Jammu and Kashmir State. As Justice Anand observes "This might appear extraordinary, but it is not irregular, for unlike the other Indian States, Kashmir did not accept the application of the Indian Constitution in its entirety".

The highest court of the land had several occasions to review and interpret the implications of Article 370 of the Constitution of India. In the cases of Prem Nath v/s the State of Jammu and Kashmir, Sampat Prakash v/s The State of Jammu and Kashmir and P.L. Lakhanpal v/s The State of Jammu and Kashmir, the Supreme Court of India held that after the execution of the Instrument of Accession, the future relationship of the State with the Union of India was left entirely to the final decision of the Constituent

Assembly of the State.

The Constitution of India unambiguously envisaged convening of a Constituent Assembly for Jammu and Kashmir as also provided that whatever modifications or amendments, that might become necessary either to Article 370 or to any other Article in the Constitution of India in their application to Jammu and Kashmir State, were subject to the decision of that Assembly.

It is quite obvious, therefore, that the Constituent Assembly of the State not having made the recommendation for repeal of Article 370 of the Constitution of India, the only conclusion is that the said Article cannot be modified, amended or abrogated unilaterally. In fact, Article 370 can neither be modified, amended or abrogated by Parliament nor by the President of India unless recommendation to that effect is made by the Constituent Assembly of the State which is non-existent at the moment.

In this connection, a close study of Clause (2) and (3) of Article 370 seems to be necessary. Clause (2) provided that, if the Government of Jammu and Kashmir recommended to the President of India an enlargement of the powers of the Union Parliament by including matters other than those referred to in the Instrument of Accession, such recommendations should be placed before the Constituent Assembly of the State. Thus, in effect, the power to extend the scope of the powers of Parliament or otherwise change the basis of relationship of Kashmir with India as vested in the Constituent Assembly of the State. The implication of this clause is that the arrangement made under Article 370 was to continue until the Constituent Assembly of the State made a decision to the contrary.

Clause (3) of Article 370 provided that the Constituent Assembly could recommend to the President of India to abrogate, modify or to make it applicable with exceptions. The President could not, however, take these steps unilaterally without the previous recommendations of the Constituent Assembly of the State.

It follows from the above discussion that Article 370 can under no circumstances be modified, amended or abrogated by any authority against the wishes of the people of the Jammu and Kashmir State.

Courtesy: Indian Express, June 9, 1989.

ARTICLE 370
THE WAY OUT IN KASHMIR

A. G. Noorani

Detailed note on Article 370 of the constitution by President Rajendra Prasad, which he sent to Prime Minister Jawarharlal Nehru on September 6, 1952, provided the key to a solution of the Kashmir tangle today. The document came to light only last year and is particularly relevant now that a good few militants have publicly advocated a political solution and the government of India has also begun to try to grope its way out of the political and constitutional mess in Kashmir in which it finds itself. It is important to understand the significance of the militant's statements and the nature of the mess in order to appreciate fully the enormous value of Rajender Prasad's Note.

If, on June 3, the former Chief of the Jammu and Kashmir People's League, Mr. Fazal Haq Qureshi, called for a "purposeful dialogue", the next day the Al-Barq group's leader Mr. Tajamul Islam, pleaded for a political solution. In this context, the plea of the JKLF Chief, Mr. Amanullah Khan's plea of the divide assumes significance. All the more so in view of his definition of this objective — to find "a formula to solve the Kashmir issue on the basis of the wishes and aspirations of the Kashmiri people without jeopardizing the legitimate interests of India and Pakistan". This means a compromise. Hence the omission of an explicit reference to plebiscite and recognition of India's legitimate interests.

Reminiscent

It is reminiscent of the Jammu and Kashmir State People's Convention convened by Sheikh Abdullah in Srinagar in October, 1968. At its second session there is June, 1970, papers from Kashmiris in Pakistan and the

occupied Kashmir were also read out. New Delhi would be most ill-advised to prevent people from participating in the present exercise.

Politically, the State Advisory Council has proved a failure. The only silver lining in the cloud are Prime Minister Narasimha Rao's willingness to consider "what else the (the militants) would like within the Indian Constitution" besides Article 370. He explained "when someone calls it Azadi and means that he does not want the Indian Constitution to operate, then we have no common ground. If he thinks that within the Indian Constitution, any amount of autonomy which meets with the aspirations is possible, then that is what we have to explore".

The Governor, Mr. G. C. Saxena, realistically suggested on May 29 that the time is not ripe for elections, and "conditions conducive for elections" must first be created through "dialogue" and "political accommodation". There is need for urgency in this task. The State Assembly was dissolved on February 19, 1990, by the Governor, Mr. Jagmohan. A writ petition was filed challenging this action. On June 2, 1992, the High Court referred it to a full Bench. The Assembly's term expires next March and its revival is unlikely to impress the militants, many of whom took up arms because elections took in March, 1987, were rigged. On January 19, 1990, following Dr. Farooq Abdullah's resignation, the Governor assumed the State's administration under Section 92 of the State's Constitution. On the expiry of its term six months later, President's Rule was imposed on July 18, 1990. It expires on September 2, 1992. Its maximum term is three years. Elections cannot be put off beyond September, 1993 in any event. The dialogue must start before that.

But there is a yet deeper constitutional mess. In the light of Rajendra Prasad's Note, all additions to the Centre's powers over the State after November 17, 1956, including the power to impose President's Rule are void. For, on that day Kashmir's Constituent Assembly ceased to exist. It was the indispensable ratifying body for such of a solution — the people of Kashmir can be offered Azadi within the Union by restoring Article 370 to its original strength.

Let us consider first the back ground to the Note. The State of Jammu and Kashmir acceded to India on October 26, 1947, in respect of three subjects alone — defence, foreign affairs and communications. The Instrument of Accession provided (para7) clearly that: "Nothing in this Instrument shall

be deemed to commit me (the Maharaja) in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future Constitution".

But all the other States signed on the dotted line. Uniquely among them, Kashmir's leaders negotiated with the Centre's leaders, for four months from May to October 1949, the terms of its membership in the Union. Article 370 moved in the Constituent Assembly on October 17, 1949. But, as Sheikh Abdullah bitterly complained in his letter to Sir N. Gopalaswamy Ayyangar that day, "while we were still discussing the matter in the lobby amongst ourselves, the draft Article 306-A (Article 370 in embryo) was moved by you in the Constituent Assembly". He discovered that the Explanation clause defining the Government of the State had been altered — contrary to the accord.

Sir Gopalaswamy's reply the next day did not deny the fact of the unilateral change but only contended that it was a "trivial change". It was not. Under the agreed draft, the Shiekh's dismissal on August 8, 1953, would have been impossible. The State Government as defined was to be the one appointed on March 5, 1948. The alteration widened it to "the Council of Ministers for the time being in Office".

Article 370 makes six special provisions for the State. First, it allows the State to have its own Constitution. Secondly, it restricts Parliament's power to the three subjects. Thirdly, the President was empowered to extend to the State other provisions of the Constitution in order to provide a federal framework. For this, mere "consultation" with the State Government suffices if they related to matters specified in the Instrument of Accession since the State had accepted them already in 1947. But, fourthly, if other constitutional provisions or other Union powers are to be extended to Kashmir, the prior "concurrence" of the State Government was required.

The fifth feature is that even that concurrence alone did not suffice. It had to be ratified by the State's Constituent Assembly. Article 370 (2) is clear on this point. "If the concurrence of the Government of the State......be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such assembly for such decision as it may take thereon".

Powers

This clearly shows that the President could not exercise his powers to extend the Constitution to Kashmir indefinitely. The power had to stop at the point the State's Constituent Assembly drafted the State Constitution and decided finally, what additional subjects to confer on the Union and what other provisions of the Constitution of India it should get extended to the State rather than having their counterparts embodied in the State Constitution itself. Once it finalized the scheme and dispersed. The President's extending power ended.

Finally, Article 370 (3) empowers the President to make an order abrogating or amending it. But, for this too, "the recommendation" of the State's Constituent Assembly "shall be necessary before the President issues such a notification".

Sir N. Gopalaswamy Ayyangar's exposition of Article 370 in the Constituent Assembly on October 17, 1949, was clear. "The idea is that even before the Constituent Assembly (of the State) meets, it may be necessary in the interests of both the Centre and the State that certain items which are not included in the Instrument of Accession would be appropriately added.....and as this may happen before the Constituent Assembly meets, the only authority from whom we can get consent for the addition is the Government of the State". But it was both temporary and conditional. "It is one of our commitments to the people and Government of Kashmir that no such addition should be made except with the consent of the Constituent Assembly which may be called in the State for the purpose of framing its Constitution.

The State Government, Sir N. Gopalaswamy Ayyangar appproningly added, also felt that "they cannot be regarded as final authorities for the giving of this concurrence, though they are prepared to give it in the interim periods but if they do give this concurrence", "it should be placed before the Constituent Assembly when it meets and the Constituent Assembly may take whatever decisions it likes on these matters".

Four propositions become clear from this. First, the State Government was to be only an "interim" concurring authority to any further extension of the Centre's power till the Assembly met. It cannot concur there after. Secondly, no such addition could be made without the Constituent

Assembly's consent, whether accorded by ratification or of its own accord.

Extension

Thirdly, the Assembly could properly make the request only at the final stage when it had drafted the State's Constitution. Lastly, it necessarily follows that extension of Central power ceases once the Constituent Assembly disperses. As Ayyangar said when the State's Constituent Assembly has "taken its decision, both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may, on the recommendation of that Constituent Assembly, issue an order that this Article 306-A (370 in the draft) shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified. But before he issues any order of that kind, the recommendation of the Constituent Assembly will be a condition precedent". So Article 370 cannot be abrogated now.

It is plain for all to see that the Centre has flouted Article 370 in blatant violation of its provisions and the authoritative exposition of its authors. Though Kashmir's Constituent Assembly drafted the Constitution on November 17, 1956, and vanished, State Governments gave their own "concurrence" to extension of Central authority. They had no right to do so after the Assembly met and no such extension is valid without its consent. Thus all the additions to the Centre's power after November 17, 1956, are null and void. Rajen Babu's Note proves, this to the hilt and in doing so opens the way to an accord on the basis of Article 370 before its erosion. He felt compelled to write it in these circumstances.

On November 25, 1949, Kashmir accepted the Constitution of India by its Maharaja's Proclamation. The President made his first order under Article 370 on January 26, 1950, extending the Constitution to the State in limited respects as agreed.

On May 1, 1951 the Maharaja of Kashmir issued a Proclamation for convening the State's Constituent Assembly. The body met on November 5, 1951, and lost little time in ushering in constitutional change. It abolished the hereditary rulership and made the head of the State, the Sardar-i-Riyasat, an elective office with effect from November,17,1952. It also recommended to the President of India that he make an order, effective from the same date, substituting an explanation for the one which had been inserted contrary to

the understanding with Sheikh Abdullah three years earlier.

President Ranjendra Prasad was understandably exercised. Hence his Note of September 6, 1952. He questioned "the competence of the President to have repeated recourse to the extraordinary powers conferred on him "by Article 370. Any provision authorizing the executive government to make amendments in the Constitution" was an incongruity. He endorsed Ayyangar's views on the finality of single order under Article 370. "I have little doubt myself that the intention is that the power is to be exercised only once, for then alone would it be possible to determine with precision which particular provisions should be excepted and which modified".

He concluded: "The conclusion therefore, seems to me to be irresistible that clause (3) of Article 370 was not intended to be used from time to time as occasion required. Nor was it intended to be used without any limit as to time. The correct view appears to be that recourse is to be had to this clause only when the Constituent Assembly (sic) (Constitution) of the State has been fully framed". That was over in 1956.

Dr. Prasad had presided over the Constitution Assembly when it adopted Article 370 and was one of the leaders of the Bar. What, then, is one to make of the monstrosity of unconstitutional aggrandisement of the Centre's power reducing the State's authority to a farce? Truth to tell even the basic order of May 14, 1954, under Article 370 extending Central authorities to the State is itself void. It was issued avowedly with the "concurrence" of the State Government and not with the consent of the Constituent Assembly which had already come into being.

Sadly, the Supreme Court's ruling in 1968 in Sampat Prakash's case assisted this process. It ruled that even after the State Constituent Assembly had ceased to exist, the President could, with the concurrence of the State Government —— unratified by that body, of course —— add to the Union's powers.

The flaws in the judgement are palpable. Sir Gopalaswamy's speech was quoted on the international aspect. His exposition of Article 370, which was more to the point, was totally ignored. Worse still, it ignored an earlier judgement of the Constitution Bench of the Court to the contrary. In 1959 in Prem Nath Kaul's case the Court had ruled that the "continuance of the exercise of powers conferred "by Article 370 (1)" is made conditional on the

final approval by the said Constituent Assembly.

Accretion

Now that the President of India's Note has come to light, the accretion of Central powers over Kashmir after 1956 becomes impossible to justify. It leads to the irresistible conclusion that imposion of President's rule in the State is also unconstitutional. For, Article 356, which enables that was extended to the State despite s.92 in its own Constitution by a President Order, on November 21, 1964, with the "concurrence" of the State Government. The fact that the State Governments which accorded such consent had won power through rigged elections adds to the monstrosity of the wrong.

The best course now is to recognize the wrong that has been perpetrated and offer to the people of Kashmir Azadi as embodied in Article 370 in its pristine force. If Pakistan agrees to extend the same guarantees to the POK, the two states can conclude an accord on that basis, each joining in the guarantee to the other half of the State. The line of control can then be made an open international border.

Courtesy: Kashmir Times, June 20, 1992

A REVEALING EPISODE WHEN THE CONGRESS PARTY OPPOSED ARTICLE 370

L. K. Advani

Thanks to the Ekta Yatra, there has been a lot of animated public debate these days on Article 370 of the Indian Constitution, the provision that confers a special status on Jammu and Kashmir State. The discussion has not been confined only to its content or to its desirability; several writers have sought to probe its genesis and history. This piece has a look at a very significant facet of this history.

Going through parliamentary records, I felt in-trigued by a remark made by the then Prime Minister Pandit Nehru in which he suggested that this particular provision was Sardar Patel's contribution. In the course of a longish statement on Kashmir made in the Lok Sabha (July 24, 1952) Pandit Nehru defended the Article on the ground that as the issue had been referred to the United Nations "the whole matter was in a fluid state". He went on to add that the matter relating to Jammu and Kashmir's position in the Constitution was clinched in November, 1949, and that it was Sardar Patel who was "all this time dealing with it".

Pursuing the matter further, I discovered that factually Pandit Nehru was quite correct in as much as when the Constituent Assembly adopted this particular provision, Pandit Nehru had gone abroad, and all affairs of Government were being looked after by Sardar Patel. But thereby hangs an interesting tale, recounted in some detail by Mr. V. Shankar, Private Secretary to the Minister of Home Affairs at that time.

In his two-volume book "My Reminiscences of Sardar Patel", V. Shankar says that Sheikh Abdullah "did not trust the Indian Government and while he accepted a constitutional relationship with the Indian Union,

he wanted to reserve to the Government of Jammu and Kashmir of his choice the final word as to the detailed context of the accession on three subjects of Defence, External Affairs and Communication and any further accretion to such accession", Sheikh Abdullah also wanted full freedom for the Constituent Assembly to form its own constitution.

Before leaving abroad, Pandit Nehru finalised the draft provisions relating to Jammu and Kashmir with Sheikh Mohammad Abdullah and entrusted to Mr. Gopalaswamy Ayyangar the task of piloting these provisions through the Constituent Assembly. Obviously, Mr. Ayyangar had no idea as to how daunting this task was going to prove.

Before formally moving the Article in the Constituent Assembly, Mr. Ayyangar spelt out his proposals in the Congress Parliamentary Party. His presentation, Shankar notes, provoked "a storm of angry protests from all sides and Gopalaswamy Ayyangar found himself a lone defender with Maulana Azad an ineffective supporter".

According to Shankar, "In the party, there was a strong body of opinion which looked askance at any suggestion of discrimination between the Jammu and Kashmir State and other States as members of the future Indian Union and was not prepared to go beyond certain limits in providing for the special position of Jammu and Kashmir. Sardar Patel was himself fully in accord with this opinion, but due to his usual policy of not standing in the way of Pandit Nehru and Gopalaswamy Ayyangar who sorted out problems in their own light, he had kept his own views in framing the draft proposals with the result that he heard the proposals only when Gopalaswamy Ayyangar announced them to the Congress Party".

Dismayed by the rough reception he had to face at the Congress Party meeting, Mr. Ayyangar rushed to Sardar Patel and "appealed to him to come to his rescue". What transpired subsequently has been recounted by Shankar thus: "Sardar heard him (Ayyangar) and lapsed into silence. To my query as to what reply he would like to give, he said he would think it over.

> "Later in the evening he rang me up and told that he had sent for Satyanarain Sinha, the Chief Whip, and had asked him to convene a meeting of the Party Executive, together with some of the prominent stormy petrels and they would discuss the matter; he wanted me to be present at the meeting".

"The meeting was held at the appointed hour and Maulana Azad was also present. The meeting was one of the stormiest I have ever witnessed. The opinion in opposition to Gopalaswamy's formula was forcefully and even militantly expressed ... even Maulana Azad was shouted down. It was left to Sardar to bring the discussion down to the practical plane and to plead that because of the international complications, a provisional approach alone could be made....."

Reluctantly it seems, the Congress Party fell in line with Sardar's wishes. Indeed, it is this that explains why in the Constituent Assembly the discussion on this provision was so vapid and sketchy. Apart from Ayyangar's own speech, there was not a single worthwhile intervention, either for, or against. The steam, obviously had been let off at the party meeting.

Curiously, Sardar's success at persuading Congressmen to reconcile with this "temporary" provision — Article 370 — brought about an estrangement of sorts between Patel and his lieutenant.

Writes Shankar, "I was somewhat taken aback at Sardar's acquiescence in the draft formula of Gopalaswamy Ayyangar and strongly felt that Sardar had compromised the position of the Indian Union and other States in accepting that formula as the basis. Frankly speaking, I was resentful of Sardar's attitude and when we returned to his residence during the lunch break, I was silent and sullen and repaired straight to my office room. Maniben came to call me for lunch; I declined to go and told her about the pain and anguish inwardly felt, adding that for the first time I nursed a grievance of betrayal on the part of Sardar. She conveyed my feeling of resentment to Sardar who sent her back to tell me that I should join the lunch table at least for a talk. I did so, accordingly. As soon as I was seated, Sardar spoke, "So you are annoyed with me for having accepted Gopalaswamy's formula. I queried that if he felt that way, why did he not indicate his mind earlier. He said, "I was deeply concerned at the situation. Gopalaswamy had acted under Panditji's advice. If Jawaharlal Nehru were here I could have had it out with him. But now could I do so with Gopalaswamy who was only acting under order? If I did, people would have said that I was taking revenge on his confident when he was away. Gopalaswamy had appealed to me for help. How could I have let him down in the absence of his Chief".

"I then asked why he had let down the country and the other States whose Constituent Assemblies had been scrapped in accordance with

his advice and policy. He conceded the validity of the criticism but pointed out the delicate international position of the State and the issue of its relationship with India. We felt that the present situation had to be tided over without giving up the eventuality and this had been done under the formula. He said that after all, neither Sheikh Abdullah nor Gopalaswamy was permanent. The future would depend on the strength and guts of the Indian Government and if "we cannot have confidences in our own strength we do not deserve to exist as a nation".

And here is a postscript to this revealing episode. On July 24, 1952, the day on which Pandit Nehru made the Kashmir Statement and affirmed that it was Sardar Patel who was dealing with the Jammu and Kashmir provision, V. Shankar, at that time Joint Secretary in Ayyangar's Ministry ran into his Ministry and exchanged notes about the happening. Ayyangar's comment on Panditji's remark was sharp: "It is an ill-return to Sardar for the magnanimity he had shown in accepting Panditji's point of view against his better judgement".

Courtesy: Indian Express, February 17, 1992.

FRAGMENTATION OF JAMMU & KASHMIR AND ARTICLE 370

A. C. Bose

Of late articles galore are coming out in the press in support of bifurcation or trifurcation of this unfortunate state on regio-demographic lines. In every sense it is an extremely heterogeneous state created by the sword and shrewdness of Maharaja Gulab Singh and it requires a high degree of shrewdness both to make it work or to break it up satisfactorily. At the moment there are two articulate groups seeking separation from the politically dominant and economically favoured valley. But, as it always happens in history, many more similar groups will make their voice heard when, if ever, the time for such a breakup appears near. Certain recent experiences have made me acutely conscious of such undesirable possibilities.

Nearly a month ago an Indian social anthropologist from abroad visited certain camps of the nomadic tribes in Jammu Division and had frank discussions with them regarding their response to the present situation. In the first place, while politely condemning all acts of violence, they affirmed that every community had the right to demand independence and there was nothing wrong on the part of any one of them seeking it with the means at their command. Secondly, they were bitterly opposed to the idea of the separation of Jammu Division from Kashmir. Most of them migrant between these two regions with their animals twice a year and they fear that the administrative separation between these two would adversely affect their facility of movement and other interests. Besides, they are mortally afraid of being thrown at the mercy of the Hindus of Jammu. The present balance of authority and tussle between the Kashmiris and the Jammuites give them the desired sense of security and scope for occasional political maneuverability. But, in the absence of Kashmir as a countervailing force, they as a weak minority would left with no voice to project their demands and to protect their identity. Like Jinnah in Mid-thirties, many of these Gujjar-

Bakerwal leaders asserted that there was a third party in the demand for breaking up this state (no less populous than Ladakh) for them would have to be created covering the whole of the Poonch District and parts of Rajouri and even Udhampur. If the Muslims of Kargil can be separate from their co-religionists in Kashmir on ethno-cultural grounds how can these Muslim nomads be kept bound to those with whom they have nothing in common? These people inhabit at highly sensitive region on our porous frontier and there will never be any dearth of forces only too eager to play with their hopes and fears. One should be attentive to the demands from Doda District also.

These proposals regarding the break up of this state makes one think of the Article 370 of the Indian Constitution which seeks to give it a separate identity and the cementing force of common interest. Of late certain politicians and former bureaucrats appear to have developed a vested interest in condemning this article as the main cause of all that has happened and is happening here and, especially, in the valley. As an outsider who has spent 22 happy years in this state, I fail to find any thing particularly uncomfortable with this article. The essence of this article is the separate constitution that this state possesses and how does it matter to over 99% of outsiders settled here who are not political activists? They are primarily interested in earning a living, in getting their children admitted to all educational institutions and state government jobs on the basis of merit, and in getting land and loan like others for building of house here in the evenings of their lives. Since these opportunities are denied to them other Indian i.e. the outsiders, feel that Jammu and Kashmir is, as if, a separate territory. Even in the U.K. one can have a government job, own a house or a farm, and cast his vote during elections without giving up his nationality. So a separate constitution for this state can still permit us these facilities. However, opportunities were denied to outsiders not by this much-maligned article but by the rule regarding state subjects promulgated as early as early as 1927, and the demand for it was spear-headed not by Muslims but by the Hindus of this state, in order to monopolise its resources and opportunities. Article 370 has never stood in the way of the Government of India behaving with or in this state as its liked. Here one head of the government was arrested and was later made the Chief Minister without any election or his party in the assembly to support him. Later, too, ministries were formed, dismissed and central rule imposed with effortless ease. Higher echelon of this state's administration have remained, all through, firmly in the hands of senior officers from outside and all these despite Article 370. Then, in

what ways does it limit the authority to latitude to the political bosses of this state? If after 22 years I fail to feel that I belong to this state, it is not because of this article but because of the obstacles raised twenty years before independence. One should begin at the beginning and those interested in ensuring a closer integration of this state with the rest of India should start agitating for the removal of these restrictions first imposed in 1927. These are the substance of separateness, the state's constitution and flag are mere symbols.

Courtesy: Kashmir Times, May 8, 1992.

BREAKING KASHMIR IMPASSE EFFECTIVE AUTONOMY IS THE KEY

Praful Bidwai

Recent developments suggest that the government is again toying with the idea of holding assembly elections in Jammu and Kashmir. There are strong reasons why it should not resort to such tokenism. Heightened militant activity and alleged excesses on the part of security forces in three major incidents in three weeks have vitiated the atmosphere in the valley. The law and order situation is itself a deterrent argument.

More compellingly, there is not credible political force in Kashmir today which is willing to lend legitimacy to the Valley's present relationship with the rest of the country after the cataclysmic developments of the past 30 months and the AZADI movement.

The plain truth is that New Delhi's writ no longer runs in the valley despite its overwhelming military presence. The bulk of Kashmiris have been seriously alienated from India after the brutal turning point of January, 1990. The policy of encouraging the pandits to leave the valley, widely attributed to Mr. Jagmohan and fundamentalist attacks upon them embittered inter-community relations and led to painful migration. The BJP's "EKTA YATRA" only aggravated matters. Ham-handed attempts since to make deals with discredited politicians have further undermined New Delhi's credibility.

Pakistan has cynically exploited the Kashmir's alienation to prop up Islamic fundamentalist groups, such as Hizbul Mujahidin, opposed to the basically secular JKLF. New Delhi has not succeeded in using intra-militant rifts to national advantage. Its failure to put autonomy on the agenda has

convinced large number of Kashmiris that AZADI is the only way out.

Impasse

The impasse in Kashmir cannot be easily broken. The Indian state lacks both the will and to some extent the ability to break it in a direct, simple way. Indian policy-makers have been preoccupied with the likely consequences of a new deal for Kashmir but have little thought to its rationale and content.

However, the time has come to acknowledge the case for genuinely respecting the autonomy for Kashmir provided for in the Constitution. This arises from the unique social-cultural identity of the Kashmiri people, both Hindu and Muslim; the valley's very special geography and economy; six centuries long resistance to incorporation under Indian and Afghan rule, including the Mughal Empire; weak integration into the colonial structure; and the struggle for a special political identity in spite of accession to India.

Article 370 is nothing if not a codification of this, Kashmir, unlike the other Part B states, never gave up its own constitution and instead negotiated its terms for incorporation into the Union — beyond the bland Instrument of Accession of October 26, 1947 covering defence, external affairs and communications.

Article 370 gives legal-constitutional expression to these terms. Above all, however, it is the popular desire for autonomy — manifested in a thousand different ways and not just as a temporary response to a passing mood or a conjuncture — that clinches the issue. If the vast majority of Kashmiris want greater autonomy, their will must prevail. Rather than view, it as a threat to Indian unity, we must see enhanced autonomy as part of a large desirable process of federalisation and decentralization.

Mockery

And yet, not only have Indian policy-and opinion-makers failed to recognize this: they have deluded themselves that the use of adequate force to contain secessionist violence and a steady barrage of (justified) criticism of Pakistan will make the problem go away. Worse, they have for decades violated vital provisions of the Constitution and made a mockery of Article 370.

In this short space, we can do no more than recall that Article 370 only allows the President to make an order extending to Kashmir central legislation relating to matters under the Instrument of Accession after "consultation" with the state government. Everything else needs the "concurrence" of the latter, but it must itself be ratified by the State's constituent assembly. Equally important, Clause (3) empowers the President to issue a "public notification" to rescind or modify Article 370 but here the "recommendation" of the Constituent Assembly is a sine qua non.

This veto power gives the Jammu and Kashmir Constituent Assembly a very special character under the Constitution of India. That assembly ceased to exist in 1956. All subsequent Central Legislation has been extended to Jammu and Kashmir year after year without Constitutional sanction.

This is a gigantic fraud upon the Constitution of India which has been sustained by the prevalence of public apathy and astonishing legal illiteracy. All irresponsible talk of abrogating Article 370 to undo this fraud can only further compound it.

The way Article 370 has been treated points to first-rate constitutional crisis. There is a crying need to resolve the crisis and simultaneously move towards a new, radically humane, sui generis solution to the Kashmir problem. Three different proposals have been advanced. All of them separate the Valley from Jammu and Ladakh and requires a return to the pre-1953 situation, to the bottom line. First, there is the 1948-49 notion of a plebiscite. India first agreed to this but rejected it in 1953 following Pakistan's decision to join the US cold war alliance system. This idea now finds new supporters outside Pakistan, which too is less than keen. It is fraught with the two-fold danger that religion will cloud the issue and that Kashmir's autonomy will get illegitimately linked to an either-or, India-or-Pakistan, choice.

Secondly, there is the Italo-Yugoslav Trieste solution this involves, on the 1954 model of the "Free Territory of Trieste", the conversion of the present line of control in Kashmir into an international border which is porous, the withdrawal of both Indian and Pakistani forces from Kashmir, and freedom for all Kashmiris to travel and work back and forth.

This is desirable and is likely to win Kashmiri and international support. But it is conditional upon a level of amity between India and Pakistan which has hitherto proved elusive. It is also unclear if Pakistan will easily agree to an arrangement that gravely, undermines its own raison d'etre. A Trieste solution can only be part of a great historic detente.

Thirdly, there are suggestions for greater autonomy — to the point of loose federation within the Indian Union, with the freedom to extend the autonomous region to "Azad Kashmir". These have the merit of permitting unilateral action by India. They also create an opportunity to launch a project of decentralization by starting with an extreme but simple problem. This will of course involve negotiating with the JKLF and other secular autonomist forces and isolating the pro-Pakistani fundamentalists. The process must start now.

The Best Way

In the long run, the most dramatic opening is presented by the crisis over Article 370. The best way to resolve this is to implement the Article by returning to the pre-1953 situation and convening a constituent assembly in Kashmir to decide which Central Legislation should be extended to the state. This must be accompanied by a package of economic and social measures of extraordinary generosity and by an open, clean, transparent, honest and humble approach to Kashmiri concerns.

There is no other democratic way of retaining a secular, non-fundamentalist Kashmir within India. Such an arrangement can eventually make way for a Trieste solution or another abiding arrangement. All that is in the future. A move on Article 370 and a major initiative focussed on the JKLF must begin now.

Courtesy: Times of India, August 6, 1992

FUTURE OF KASHMIR RECOGNISING ITS SPECIAL STATUS

Karan Singh

It is almost three years now that the country has watched with horror the prolonged agony of Kashmir. The violent insurgency has resulted in the loss of hundreds of precious lives, the disruption of the economy, the mass emigration of the minority community, the collapse of political processes, the tragic estrangement of the Kashmiri people, and the polarisation between the guns of the militants on the one hand and of the security forces on the other.

Veritable Hell

It is impossible to quantify the totality of this disaster. What used to be known as the "heaven on earth" has become a veritable hell. What was known as the crown of India has become a veritable crown of thorns. The situation is dragging on interminably, with all the incalculable dangers that are involved. Such an indefinite drift could well culminate in a fourth war with Pakistan which, with destructive technology updated on both sides since the Bangladesh war of 1971, would certainly be a disaster for both countries and prove fatal for the people of the State.

It is not my intention to dwell upon the various factors that brought about the present situation, although the final explosion took place soon after the assumption of office by the ill-started National Front government in 1989. Political mismanagement, inner-party and intra-party rivalries, corruption and nepotism, the incapacity to take a longer view of the multiple complexities involved, the psychological impact of events in the erstwhile Soviet Union and Eastern Europe, and massive assistance in weaponry, training and finance from Pakistan have all contributed to this monu-

mental human tragedy.

My family was closely associated with the founding of Jammu and Kashmir and its administration for a century, and my father signed the Instrument of Accession in 1947 in the wake of the tribal invasion organized and supported by Pakistan. After being head of state in various capacities for 18 years, I represented the state in the Lok Sabha for another 18. I will, therefore, approach the problem with utmost frankness and realism.

There has been a qualitative change in the situation in the valley since 1989, and reversion to status quo ante does not seem to me to be a realistic option. What we need is a radically new approach. In order to deal effectively with the whole problem, certain facts have to be accepted whether one likes them or not.

First, Jammu and Kashmir is a special case due to historic reasons. It still has a separate Constitution which I signed into law as Sardar-i-Riyasat and the jurisdiction of parliament to pass laws for the state is restricted. Secondly, whatever may have been the unwritten understanding between Indira Gandhi and Zulfikar Ali Bhutto, the Simla Agreement with Pakistan does envisage "a final settlement of Jammu and Kashmir". Therefore, this state will have to be treated as a special case. In a large, pluralistic, federal nation like ours we should be prepared to adopt a flexible and imaginative approach rather than seek to steamroll all constituent units into a single, rigid pattern.

Thirdly, of the 84,000-odd square miles of my father's former state, just about half is now with India. A large chunk is under Chinese control and two regions, the northern areas and the western strip, are under Pakistani control. Fourthly, even the Jammu and Kashmir state that is in India is itself a multi-regional one, and any abiding solution will have to take cognizance of this crucial fact. Our inability to see this clearly, and our self-defeating attempts to treat the three regions of Kashmir, Jammu and Ladakh as if they had similar aspirations and sensitivities, is at the root of many of the present problems. The incomprehensible decision not to include Dogri in the eight schedule is a case in point. In fact, for 40 years not only has "Kashmiriyat" been grouping to establish its identity, the minority regions of Jammu and Ladakh have been suffering from their own sense of grievance and deprivation.

Three Levels

Clearly, the whole issue needs to be tackled on three levels. The first relates to the regions effectively under our control, where for the reactivisation of political process and establishment of genuine democracy, necessary changes can be made within the ambit of the Indian and state constitutions. The second relates to our relationship with Pakistan, the regions of the state under is effective control, and its well-organized efforts to promote insurgency through training, financing and arming various extremist groups in the valley. The third involves our border dispute with China and the possibility of finally coming to a mutually acceptable agreement.

As a first step, the Prime Minister would be well advised to set up a high-level mechanism to deal with the problem. A situation where important political functionaries publicly express differing opinions on vital matters connected with the state is most unfortunate, as it creates confusion and bewilderment among even those who are favourably inclined towards India. A Cabinet Committee presided over by the Prime Minister, and a Cabinet Minister specifically charged with dealing with Jammu and Kashmir, may provide the required mechanism at the Centre, with necessary structural arrangements in the state.

Thorough Appraisal

Thereafter, a thorough appraisal of the whole situation and the various options that are available, an assessment of the national and international implications of each option, consultations with political parties in Parliament and with a broad spectrum of political opinion within the state, can all help to bring some clarity to bear upon this complex and contentious matter.

It must be remembered that if India and Pakistan continue their endless confrontation, both countries will be seriously weakened and their vast, long-suffering populations, now adding up to a billion, adversely affected. As it is, our neighbouring ASEAN countries are in the process of a major economic upswing, while the SAARC countries are bogged down in the poverty quagmire into which they will continue to sink deeper unless they sink their differences.

The seers and thinkers who led our freedom movement envisaged for India a grand and noble role in world affairs. I believe that if the valley could be rescued from the anguish and turmoil into which it has plunged, there will be a benign impact on India's internal situation. Kashmir for centuries has been a spiritual centre for Hindu, Buddhist, Muslim and Sikh mystics, and with all the tragedies that have beset this beautiful vale, it still retains something of an inner fragrance and spiritual ambience. I would submit that it is only by showing courage, compassion and magnanimity regarding Jammu and Kashmir that we as a nation can rise to our full stature.

Courtesy: The Times of India, August 31, 1992.

NOWHERE TO NOWHERE - THE EKTA YATRA AND MISTAKEN NOTIONS ON ARTICLE 370

B. G. Verghese

Dr. Murli Manohar Joshi, the Bharatiya Janata Party President, took time off from his strenuous Ekta Yatra from Kanyakumari to Kashmir on new year's eve to inform the National Integration Council about the cause for which he is marching. This is, he said, to ensure the abrogation of Article 370. When the Prime Minister very properly stated that Article 370 could not be scrapped unilaterally, as it represented a "solemn assurance" to the people of Jammu and Kashmir, Dr. Joshi, like his colleague Mr. L. K. Advani, denounced the proposition as lacking any basis.

The BJP leader's statements betray profound constitutional ignorance with regard to this particular matter. And this can be easily demonstrated from the record.

Article 370 has nothing to do with Jammu and Kashmir's accession to India. This is governed by Article 1 and the First Schedule of the Indian Constitution and by the Preamble and Section 3 of the Constitution of Jammu and Kashmir. Article 370 governs Centre-State relations as between Jammu and Kashmir the Union.

Like all other princely states, Jammu and Kashmir acceded to India with the Maharaja's signature of the Instrument of Accession on October 26, 1947. Now the Instrument of Accession falls into two parts. The first part effected the State's accession to India. The second part sets out the terms and conditions of accession which obviously is not something that can be ignored or unilaterally brushed aside.

Clause 1 of Maharaja Hari Singh s Instrument of Accession reads: "I hereby declare that I accede to the Dominion of India ... but subject always to the terms thereof....."

Clause 3 states: "I accept the matters specified in the Schedule hereto as the matters specified in the Schedule with respect to which the Dominion Legislature may make laws for this State". The Schedule in turn lists these matters under the headings of Defence, External Relations, Communications and certain Ancillary matters including elections to the Dominion Legislature.

Under Clause 5 it is stipulated that "The terms of this my Instrument of Accession shall not be varied by any amendment of the (1935 Government of India) Act or of the Indian Independence Act, 1947, unless such Act is accepted by me by an Instrument supplementary to this Instrument".

More categorically, Clause 7 provides: Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future Constitution".

Mountbatten, as Governor General of India, responded with a simple "I do hereby accept this Instrument of Accession" dated October 27, 1947.

All the other acceding princely states voluntarily adopted the new Indian Constitution in itsentircity. Jammu and Kashmir was the sole exception. Centre-State relation between Jammu and Kashmir and the Union therefore continued to be guided by the solemn compact entered into through the signing and acceptance of the Instrument of Accession and it is this that is embodied in Article 370.

Article 370 provides that the power of Parliament to make laws for Jammu and Kashmir shall be limited to those matters specified in the Instrument of Accession and "such other matters in the (Union and Concurrent) Lists as, with the concurrence of the Government of the State, the President may by order specify".

Article 370 further specifies that "Notwithstanding anything in the foregoing provisions of this Article, the President may by public notifica-

tion declare that this Article shall cease to be operative only with such exceptions and modifications and from such date as he may specify; provided that the recommendations of the Constituent Assembly of the State.....shall be necessary before the President issues such notification"

Dr. Murli Manohar Joshi argues that this provision barred abrogationof Article 370 only till such time as the Jammu and Kashmir Constituent Assembly was in existence. This is not correct. The Jammu and Kashmir Constituent Assembly completed its labours with the adoption of the State Constitution on November 17, 1956. It was succeeded by a Legislature with Constituent powers to amend the Jammu and Kashmir Constitution, barring two entrenched provisions — Section 3, designating Jammu and Kashmir an integral part of the Union of India, and Section 5, limiting its powers to matters other than those entrusted to Parliament under the Indian Constitution. Therefore, it is patent that Article 370 cannot be abrogated unilaterally without the consent of the Jammu and Kashmir Legislature.

It may have been the wish of certain Indian leaders from time to time that Article 370 might in due course be totally eroded through consent. But this was no more than a hope and provides no legal basis for unilateral abrogation which would be a breach of faith that could undo the very act of accession itself in international law and certainly in terms of world opinion.

More than that, any unilateral abrogation would gravely undermine the moral basis of the Indian State which is of the greatest importance if India's solemn word is to mean anything to anybody.

There is nothing sinister about Article 370. The evil is entirely in the BJP's eye. The Constitution does not treat all States or people exactly alike. Thus Article 371 and 371 A to H, the Fifth schedule and the Sixth Schedule provide special arrangements for various States. Likewise, Scheduled Castes and Tribes, Linguistic and religious minorities and OBCs enjoy special dispensation. Again, Article 290 A provides for annual payment to certain Devaswom funds in Kerala and Tamil Nadu. Such dispensations and exceptions are perfectly normal in a plural society.

Dr. Joshi is also totally mistaken in suggesting that Article 370 is designed to protect a religious group, i.e. Muslims. It does nothing of the kind. Nor has any alleged Kashmiri oppression of Ladakhis anything to do

with Article 370. Jharkhandis, Bodos and numerous regional or sub-regional groups profess certain discontents. These have to be addressed on merits and are not products of any constitutional disability. It is often stated that persons other than Jammu and Kashmir. The same is true in Himachal, in all tribal areas and in certain other places too. This has no bearing on Article 370 whatsoever.

Finally, the claim that Article 370 has bred separatism is untenable. Separatism has manifested itself among sections of people in Tamil Nadu, Nagaland, Assam, Punjab, Mizoram, Tripora and Manipur at one time or another. None of these states is subject to Article 370. And as for it helping "corrupt oligarchies grow", neither corruption nor political oligarchies — whatever that might mean — is confined to Jammu and Kashmir and, again, has nothing to do with Article 370.

Dr. Murli Manohar Joshi is riding an illusion. He is in heroic procession from nowhere to nowhere. As a physicist he should recognise a black hole when he enters one.

Courtesy: Indian Express, Jan. 17, 1992.

Section - E

REGIONAL AUTONOMY-THE ONLY SOLUTION OF KASHMIR PROBLEM-I

B. P. Sharma

It is a tragic irony that leaders of all the three regions viz. Jammu, Kashmir and Ladakh, raised the demand of autonomy in their own ways, yet when Jammu pressed its demand for Regional Autonomy, opposition came from Kashmir. And when Sheikh Abdullah agreed to make constitutional provisions for granting autonomy to the three cultural units of the State, the offer was bitterly opposed by the Jan Sangh leaders of Jammu.

Ladakh, which began with the demand of Regional Autonomy, changed its stand by demanding Union Territory status and has now started an agitation for grant of Hill Council status. This demand has not only been opposed by Prof. Soz of the National Conference but also by the Pradesh Congress Chief, Mr. G. R. Kar.

"Complete Azadi", "Complete merger" and "Hill Council Status" have now become the three popular slogans to which may be added "creation of a separate State of Jammu". In view of the fact that the political situation in the State is becoming complex day after day, it would be of interest to trace the historical background of the divergent demands of the three regions forming the State of Jammu and Kashmir, which became one political entity only in 1846, when Maharaja Gulab Singh united the three regions by virtue of the Treaty of Amritsar.

Genesis of Autonomy

The proposal of autonomy for the entire State of Jammu and Kashmir (not for three regions separately) was first mooted by Mirza Mohammad Afzal Beig, Chairman of the Basic Principles Committee, on March 20, 1952. Mr. Beig declared:

> "The Jammu and Kashmir State would be an Autonomous Republic within the Indian Union. So far as the Constitution of the State is concerned we aim at making the framework such that the State will be an Autonomous unit within the Indian Union".

In 1952, the spiritual-cum-political leader of Ladakh, Shri Kushak Bakula, submitted a memorandum to Sheikh Mohammad Abdullah demanding "a statutory provision in the future Constitution of the State under which Ladakh would become a Federating Unit of Jammu and Kashmir". He urged that a separate Ladakh Assembly of 15 members with an Executive Council responsible to it should be set up for Ladakh to run the internal administration of the area". Kushak Bakula claimed that his plan was the best guarantee of the stability of Ladakh with Kashmir.

So far as the Jammu region is concerned, it is well known that the Praja Parishad leadership identified its interests with the Hindu Ruler. The Praja Parishad leaders openly declared that they will not rest till they have rid the Hindus of Jammu from what they described "haunting fear of Muslim domination of the Kashmiris".

However, a sane voice was also heard in Jammu. This was of Mr. Balraj Puri, to whom the credit of mooting the idea of "Regional Autonomy" as the only via-media for keeping the three regions together, rightfully goes. When Mr. Puri met Pandit Jawaharlal Nehru on April 14, 1952, he presented a memorandum to the Prime Minister. While supporting the claim of the Kashmiri leaders for a special status within the Union of India, Mr. Puri demanded autonomous status for the three constituent units of Kashmir, Ladakh and Jammu, in the State Constitution.

Beginning of Jammu's Opposition

In the mean-time the State Constituent Assembly began giving concrete shape to the report of the Basic Principles Committee. It passed a

resolution on June 7, 1952 adopting a flag for the state.

Pandit Prem Nath Dogra, the President of the Praja Parishad, condemned the decision as a "provocative act which has caused resentment in Jammu".

On June 10, 1952, the recommendation of the Basic Principles Committee recommending the abolition of Hereditary Rule and the appointment of an elected Head of the State, was presented to the Constituent Assembly. It was adopted on June 12, 1952.

This decision was also condemned by Praja Parishad leadership which demanded complete integration of the State with India.

Delhi Agreement

The discussions between the Union and the Kashmir leaders on the question of granting a Special Status to the State, were finalised in July, 1952. These were incorporated in what was called the DELHI AGREEMENT. Releasing the document at a Press Conference in Delhi on July 26, 1952, Paṇdit Nehru said that "the State Government was considering Regional Autonomies within the larger State". Simultaneously Sheikh Mohammad Abdullah, who was in Delhi, gave an assurance to the same effect.

The essence of the Delhi Agreement, according to Mr. Balraj Puri was, "autonomy of the State within India and autonomy of the regions within the State".

The Union Parliament discussed the Delhi Agreement and ratified it on August 7, 1952. The Jammu and Kashmir State Constituent Assembly ratified the Agreement on August 21, 1952.

Jammu's Opposition

The Praja Parishad protested against the Delhi Agreement. Pandit Prem Nath Dogra described it as "another surrender at the altar of communal intransigence and separatism of Sheikh Mohammad Abdullah".

Bitterly opposing the grant of Special Status to the State, the Praja Parishad demanded complete merger of the State with the Indian Union. It raised an emotional slogan of "EK VIDHAN, EK NISHAN and EK PRADHAN" (One Constitution, One Flag and One President).

Sheikh Abdullah's Role

On his return to Srinagar after finalizing the Delhi Agreement, Sheikh Abdullah began giving serious thought to his commitment for providing constitutional guarantees to the three cultural units of the State, to allay the fears of the people of Jammu and Ladakh against what they called "Kashmiri domination".

The Constituent Assembly set up a Drafting Committee which, so far as I remember, prepared a draft of over 40 pages. It was on the basis of this draft, a copy of which Sheikh Abdullah gave me, directing me to prepare a draft statement, which he proposed to broadcast from Radio Kashmir.

Broadcasting from the Srinagar Station of Radio Kashmir. Srinagar (simultaneously relayed by its Jammu counterpart) the Sheikh declared:

> "We have decided to give autonomy to the different cultural units of the State as will be provided in the Constitution that is being drawn up. This will remove all the fears of domination of one unit over the other and will make for voluntary union and the consolidation of the people of the State".

Unfortunately, the concerned file in the Information Department records, which contain the full text of the Draft proposals, as also the full text of Sheikh Sahib's broadcast containing its summary, prepared by me in English and its Urdu translation by Mr. Hakim Ghulam Mohi-ud-Din, (the then Station Director of Radio Kashmir, Srinagar) could not be traced in the Archives for lending more authenticity to this article. So far as I can recollect, the scheme envisaged a National Assembly for the State with three Regional Assemblies for Jammu, Kashmir and Ladakh.

Journalist-cum-historian, Pandit Prem Nath Bazaz has, however, in his famous book "Struggle For Freedom In Kashmir" published some details of the scheme on pages 584 and 585 of his book. He says:-

"With a view to allay the fears and suspicions of the non-Muslims living in the State, particularly the Dogras and the Budhists, the Nationalist leaders prepared a constitution on the basis of federal principles for the State. The draft envisaged Jammu and Kashmir State to be a "federal and autonomous republic".

One chapter of the draft dealt with the scheme of units in the proposed federation. It divided the State (including the Azad Kashmir area) into five units as follows:-

1. Jammu: including the districts of Jammu, Kathua, Udhampur and Doda;

2. Kashmir: including the districts of Srinagar, Baramulla and Anantnag;

3. Poonch: consisting of the districts of Mirpur, Poonch, Muzaffarabad, excluding parts of the Tehsil of Uri now included in Baramulla district;

4. District of Ladakh: including the tehsils of Skardu, Kargil and Leh;

5. Gilgat.

"The plan said that for the present and till settlement of the accession dispute the State should have only three provinces viz. Kashmir, Jammu and Ladakh. Accordingly appropriate provisions would be incorporated in the State Constitution to ensure voluntary cooperation among various cultural groups of Jammu and Kashmir", he concludes. And adds by way of own comment: "But as the Federal Government of Kashmir would wield the real power in all parts of the State and would be dominated by the Muslims this plan was neither acceptable to the Dogras nor to the Budhists unless and until the State merged fully with India".

Special Mission

I remember having been sent by Sheikh Sahib, as his special emissary, to hand over a copy of the draft personally to Pandit Prem Nath Dogra and also try to convince him of Sheikh's sincere desire to create equal op-

portunities for the development of the three regions.

Shri Dogra scoffed at the proposal. "This is a fraud on the people of Jammu. The Sheikh wants to create a Sheikhdom for himself in the valley of Kashmir to go out of our hands. We are determined to merge the entire State into India. We firmly stand by our declared goal: EK VIDHAN, EK NISHAN AND EK PRADHAN", he concluded.

On my return to Srinagar I reported Pandit Dogra's reaction to Sheikh Abdullah whose only comment was "Any agitation against the Delhi Agreement will amount to a challenge to the Union Parliament and the State Constituent Assembly both of which had ratified the Agreement in accordance with which this draft scheme was prepared".

Delhi Agreement in Action

In all sincerity Sheikh Abdullah began giving a practical shape to the Agreement.

On November 12, 1952, the State Constituent Assembly formally passed a resolution terminating the century-old Dogra Hereditary Rule and decided to elect a "Head of the State" called Sadar-i-Riyasat. Two cays later Yuvraj Karan Singh, a scion of the same Dogra Ruling dynasty was elected to this high office. He enjoyed a unique position in as much as all other Heads of State in India, called Governors, were nominated by the Union Government. His election was formally recognised by the President of India.

Before accepting the office of the Sadar-i-Riyasat Yuvaraj Karan Singh had consulted a number of persons including prominent Dogra leaders. All of the Dogra leaders advised him not to accept the office. So when on November, 24, 1952 the Sarar-i-Riyasat came to Jammu, he was greeted with black flags right from the airport to the gates of his palace.

The same day Praja Parishad launched a widespread agitation against the Special Status granted under the Delhi Agreement. The Parishad demanded complete integration of the State with India and the abrogation of Article 370 of the Constitution. The Parishad volunteers disrupted to a large extent, the official reception arranged in his honour by the State Government.

On November 26, 1952, Pandit Prem Nath Dogra, Pandit Sham Lal Sharma and about a dozen other prominent activists of the Praja Parishad were arrested. This sparked off a widespread agitation which spread like wild fire to other parts of Jammu region especially Udhampur and Kathua.

Courtesy: Kashmir Times, June 14, 1992

REGIONAL AUTONOMY-THE ONLY SOLUTION OF KASHMIR PROBLEM-II

B. P. Sharma

The Praja Parishad agitation gained wide and effective support from many quarters in India, including a section of the Press Dr. Syama Prasad Mukerji, President of the Indian Jan Sangh, however emerged as the chief supporter of the cause for which the Praja Parishad had raised the banner of revolt.

Dr. Syama Prasad Mukerji, in his letter dated February 12, 1953 addressed to Pandit Jawaharlal Nehru Prime Minister, sent a nine-point formula for withdrawal of the agitation started by the Praja Parishad. One of these suggestions was: "Provincial Autonomy to Jammu and Ladakh without changes of boundaries".

Nehru's Reply

In his reply dated February 12, 1953, the Prime Minister informed Dr. Mukerji:

> "Even in States other than Jammu and Kashmir we have to respect provincial autonomy and, though we give advice to our colleagues there, we do not interfere".

Mookerji's Stand

Again in his letter dated February 17, 1953, to the Prime Minister, Dr. Mukerji laid down the following as one of the conditions for withdrawal of the movement:

> "Both parties reiterate that the unity of the State of Jammu and Kashmir will be maintained and that the principle of autonomy will apply to the province of Jammu as a whole, and of course also to Ladakh and Kashmir Valley".

Dr. Mukerji also had a lengthy correspondence with Sheikh Abdullah also. In his letter dated February 11, 1953, he criticized Sheikh Abdullah's stand on Special Status. There cannot be a republic within a republic. There can be one and only one sovereign parliament and that is the Parliament of India", he wrote to Sheikh Abdullah and added "Consciously or unconsciously you are creating a new sovereignty for Jammu and Kashmir State".

Stressing the desirability of giving autonomy to Jammu as a whole and to Ladakh and Kashmir Valley, can be discussed in its merits at a later stage.

Make Valley a Separate State

In his letter dated February 23, 1953, to Sheikh Abdullah, Dr. Mukerji even went to the extent of suggesting:-

> "If the people of Jammu wanted full accession with India and the people of Kashmir Valley wanted a loose integration clash and conflict are inevitable. One possible solution might be to form Kashmir Valley into a separate State and give it whatever it wants for its development. It would even then continue as one of the units of the Indian Union but would function according to special provision of the Constitution".

Dr. Mukerji, however, added: "I had suggested this alternative with no pleasure. This I felt might become inevitable if no settlement could at all be reached. But let us drop this altogether and think in terms of united Jammu and Kashmir and find out how to consolidate it with the willing cooperation of the people.

Inconsistent Demands

The Praja Parishad was, however, not consistent in its stand. On the one hand it rejected the Delhi Agreement demanding complete merger with India and on the other accused Sheikh Mohammad Abdullah of delay in giving effect to the provisions of the Delhi Agreement in toto with one stroke of the pen. Even Dr. Mukerji accused him of delay in giving effect to the Delhi Agreement.

Sharply reacting to this inconsistent demand, Sheikh Abdullah, in his letter dated February 4, 1953, to Dr. Syama Prasad Mukerji wrote:

> "You support the Praja Parishad demand for complete integration of the State of a part of it with India. In that case there can be no talk on these agreements as these agreements concretely confirm the special position which has been granted to the State by the Constitution. The Praja Parishad has always opposed this and the present agitation has been started for the purpose of doing away with the special position which the State enjoys at present. I do not know what make of this contradiction".

Dr. Mukerji's Arrest

In May 1953, Dr. Shyama Prasad Mukerji entered Jammu in defiance of the Rules regarding Entry and Exit into and from the State without a valid permit. The Rules, it may be added, were not framed by the State Government but by the Defence Department of the Union. Even the Minister and high officials were not exempt from the Rules.

Sheikh Abdullah regarded these Rules an unnecessary impediment in the way of the tourist traffic to Kashmir and had even taken up the matter with the Union Government requesting withdrawal of the rules. The Defence Department, however, considered them necessary in view of Pakistani aggression. So when the Home Minister Bakshi Ghulam Mohammad came to seek Sheikh Sahib's advice regarding action to be taken in case Dr. Mukerji defied the Rules, the Sheikh advised that since the Rules were made by the Centre, he should consult Pandit Jawaharlal Nehru before taking any action against the Jan Sangh President who was not only a Member of the Parliament but was a man of high stature. Bakshi, as Home Minister ordered Dr. Mukerji's arrest and "informed" Sheikh Abdullah about the action, without

revealing the details. The Sheikh remained blissfully ignorant of the fact that Nehru had not been consulted. Dr. Mukerji was detained in a house near the famous Nishat Garden at Srinagar. Unfortunately he died of heart attack on June 23, 1953. This raised a storm of indignation against Sheikh Abdullah throughout India.

After this sad event political situation in the State took a dramatic turn. Sheikh Abdullah was arrested on August 9, 1953 and a new Government with Bakshi Ghulam Mohammad as Prime Minister was installed.

Day of the Deliverance

Sheikh Abdullah's arrest was celebrated as a "Day of Deliverance" by the Praja Parishad activists with whose collusion Bakshi had succeeded in removing Sheikh Abdullah from power and then arresting him. Overjoyed, the people of Jammu hoped that with the root cause of all their grievances (Sheikh Abdullah) in jail, they would get all their demands accepted. They forget even their basic demand of EK VIDHAN, EK NISHAN AND EK PRADHAN, and began cooperating with Bakshi Ghulam Mohammad. But after ruling with an iron hand for about ten years, the clever Bakshi declared: "Article 370 will be abrogated only after my death". He dissolved the Constituent Assembly without even seeking its opinion on Article 370.

Alas! the Jammu leadership wasted the last 40 years without achieving their basic demands. The Special Status and Article 370 which they wanted to abrogate, are still there, and each successive Government of India has only set its seal of approval on it, including the present Government which has emphatically declared that there is no proposal to abrogate it.

It deserves to be mentioned here that it was Khwaja Ghulam Mohammad Sadiq who did commendable work in bringing Kashmir closer to India and in removing some of the glaring parts of Special Status. For instance changing the designation of the "Sadar-i-Riyasat" that of "Governor" and also changing the designation of "Prime Minister of the State" to that of the "Chief Minister".

I may also mention that in 1964 a resolution was moved in the Parliament seeking to repeal Article 370 of the Constitution. There was no opposition. But Mr. Guzari Lal Nanda, the then Home Minister, told the Parliament on December 4, 1964, that "It would be totally wrong to assume

that with the repeal of the Article all constitutional provisions would automatically apply to Kashmir". And why did the Janata Government not abrogate it when in power?

Shutting their eyes to realities to the situation, the Jammu leadership continues its parrot cry: "Abrogate Article 370", causing avoidable irritation to the Muslims of Kashmir.

The latest stand of the State Unit of Bharatiya Janata Party according to its memorandum dated December 7, 1988 issued over signatures of Thakur Baldev Singh President and Prof. Chamanlal Gupta General Secretary is: "Establishment of Regional Development Boards for the three regions of Jammu, Ladakh and Kashmir. Provision of 41 seats for Jammu region in the State Assembly which has 87 seats and the implementation of the Wazir Commission Report regarding administrative units".

In fairness to BJP leadership it may be mentioned that on page 5 of their pamphlet they have condemned "Article 370 and a separate Constitution for the State as standing testimony to anti-national role of the Congress and the National Conference.

I wonder if the BJP leadership has given any serious thought whether the Regional Development Councils as proposed by the Sikri Commission and the Regional Autonomy as proposed earlier by Sheikh Abdullah, will have the same powers and functions? Obviously not. Under the Regional Autonomy scheme each of the three regions was to have a Legislative Assembly which would give them an effective voice in the administration of their own regions whereas the Advisory Boards, as their very name implies are only of advisory nature, without any real poser.

This is what the Jammu leadership has achieved during the last 40 years.

Ladakh Region

Beginning with Kushak Bakula's demand for a separate Assembly for Ladakh (which incidentally meant Regional Autonomy), the Ladakhi leadership changed their demand to Union Territory status. On December 10, however, Mr. P. Namgyal, the Congress M.P. from Ladakh urged the Central Government to grant Regional Autonomy to Ladakh. However, the

latest demand on which discussions are being held between the Central Government and the Ladakhi leaders is their demand for grant of Hill Council Status to Ladakh. The Press reports suggest that some such assurance has also been given by the Union Home Minister. This demand is now being opposed both by the National Conference and the Congress leaders of the State.

Jammu and Kashmir State is, at present, under the President's rule. Whether the Indian Parliament is complete to amend the Constitution of Jammu and Kashmir to grant Hill Council Status to Ladakh, is a debatable question. According to Section 147 of the State Constitution, an amendment can be made only by the State Legislative Assembly by a majority of not less than two-thirds of the total membership of that House.

The Autonomy Forum

The Autonomy Forum under the leadership of Mr. Balraj Puri has, however, remained consistent with its demand of Regional Autonomy. Mr. Puri has had several meetings with Pandit Jawaharlal Nehru and other leaders to press his viewpoint. He submitted detailed memoranda to the Gajendargadar and the Sikri Commissions. The number of articles he has written and got published in both the local and the National Press all these years bear a testimony to his untiring efforts to arrive at an acceptable and honourable solution of the Kashmir problem. Mention may also be made of a number of books and pamphlets published and meetings and seminars arranged by him to propagate his ideas.

Mr. Puri appears to have made Regional Autonomy an article of faith with himself. He is, no doubt, an indomitable protagonist of Regional Autonomy. In fact, to my mind, Mr. Balraj Puri and Regional Autonomy have become synonymous.

Hope Revived

With the return of Sheikh Abdullah to power in 1975 after remaining in wilderness for about 23 years, it was hoped that he would attempt to put the Autonomy Scheme into action.

Mr. O.P. Saraf, who was a Member of the State Legislative Council that Sheikh Sahib told him that he stood by his earlier commitment.

In reply to his question in the Legislative Assembly on August 2, 1975, Mr. Saraf was informed that the Government intended to set up a small committee to assure the possibility of further decentralization of constitutional and administrative powers consistent with the needs to preserve the integrity of the State.

In those very days the National Conference published a pamphlet entitled "WHY NATIONAL CONFERENCE". It contained a categorical statement that the party "proposes to reorganise the internal set-up of the State on the basis of federal structure which would provide Regional Autonomy and further decentralization of political power through appropriate constitutional arrangements at district, block and village levels".

Prof. Kapoor

In his recent well-reasoned article published in Kashmir Times (May 23) the reputed historian, Prof. Kapoor has also suggested Regional Autonomy as a possible solution.

The Solution

The present situation in the Valley by the militants demanding "Azadi" has defied any solution of the political problem so far.

Having discussed the various divergent urges of the three regions, the question arises: Is there a solution of the problem? Yes. If Jammu and Ladakh want to maintain the integrity of the State the BJP will have to give up its parrot cry of abrogation of Article 370. Similarly Ladakh will have to give up its demand of Union Territory or Hill Council Status. But if they insist on complete merger of Jammu and Ladakh with India, the only practicable solution is to accept the formula suggested by Dr. Syama Prasad Mukerji "to form Kashmir Valley a separate State within the Union of India. Simultaneously the Indian Constitution should be amended so as to delete the words "Temporary Provisions with respect to the State of Jammu and Kashmir" printed above Article 370 in the Constitution, to restore the confidence of the Muslims of the Kashmir Valley that the Democles Sword which has been kept hanging over their heads all these years has been removed forever. After all successive Prime Ministers of India have held out the assurance that there is no proposal to repeal Article 370. Mrs. Indira Gandhi went so far as to declare that Article 370 was permanent. Even

Clause I of Indira-Abdullah Accord of 1975 clearly lays down that the relations between the Union and the State "shall continue to be governed by Article 370 of the Constitution of India".

The grant of Regional Autonomy to the three cultural units will surely go a long way in removing the regional irritants and fear of domination of one region over the other.

Courtesy: Kashmir Times, June 15, 1992

JAMMU: ALIENATION AND SOCIO-POLITICAL HISTORICITY

K. N. Pandita

In post-accession period, a feeling of NC leadership making disproportionate amends to valley's deprivations during Maharaja's rule lay deep in Jammu. The feeling articulated in cry against discriminatory treatment but did not formulate in a strong unified political movement grounded in broader political, economic and social perspectives. leadership matching the challenges could not be thrown up by Jammu region. It failed to visualize the impact of the partition of India and the tribal attack on the state of Jammu and Kashmir with its peculiar demographic distribution, regional priorities and above all its physical features. The area of discontent for Jammu was far beyond discrimination only if things had been perceived through the broad prism of Indian-state building. The weakness of Praja Parishad movement lay in its inability to garner the support of the entire region of Jammu for what it precisely stood for, viz, "Quit Kashmir" A LA Jammu. It could not elaborate on the question why Article 370 needed to be applied to Jammu.

Political Alienation

It was Jammu and not the valley which saw the influx of large number of (Hindu and Sikh) refugees from POK in 1947. Thousands of refugees from Muzafarabad, Chinari, Domel, Karnah and the adjoining regions who had come to the valley after facing brutalities at the hands of the tribals and locals in their homeland, were not allowed by Sheikh Abdullah to stay in Srinagar and were sent to Jammu, Jammu needed proper infrastructure for political absorption of this enormous refugee mass who were soon to develop their social groups of urbanized orientation. The then local NC leadership (Raja Akbar Khan, Dhanwanteri, Krishan Dev Sethi, Budh Singh and PSP), by far more secular and radical — could not meet the political

aspirations of Jammu despite coopting with the NC Government.

Kashmir's strategic position in cold war era, internationalisation of the dispute and New Delhi's hunch for knocking the bottom out of two nation-theory Kashmir's accession card enormously helped concentrate and monopolization of political and administrative power by the Sunni Muslim population of the valley accounting for just 25 percent of the entire population of the state. It meant practical dominance of the valley over other two non-Kashmiri regions of Jammu and Ladakh. In the process, all Non-Kashmiri groups, too, found themselves gradually alienated. This phenomenon has been vividly brought out by P.N. Bazaz in his work "Freedom Struggle In Kashmir". The valley ruling section and Muslim elite in a bid to project themselves as the bulwark against separatist elements, had logical compulsion of looking out for an adversary.

Jammu's grievances ought to gravitate largely round the political content. By a curious machination, proportional seats in the legislature ensure devaluation of real political power in the hands of valley leadership. Manipulation of seats by the NC in the valley reduced Jammu to nominal presence which in turn excluded its popular mandate from real political power. Only Bakshi Ghulam Mohammad had tried to accommodate popular local leadership to reasonable limits. Hence Bakshi's popularity with Jammuities was not without reason. No doubt, Jammu remained well represented during Congress rule, yet forgetting to diagnose the real malady, Jammu region's Congress leadership found solace in remaining contented with a few developmental works mostly in urban sector. Short-sightedness of Jammu Civil society was one of the reasons leading to the surfacing of strong nativism once larger political picture was put aside. Thus political aspirations got drowned in the quagmire of negative expressions of identity in terms of unhealthy nativist feelings and search for anti-Kashmiri euphoria.

Jammu leadership and the civil society needed some introspection in terms of seat construction of State Legislative Assembly, viz. 42 for Kashmir, 32 for Jammu and 2 for Ladakh. Thus whereas the valley got one seat for every 73,000 persons, Jammu gets one for 90,000 persons. Given the supervention of demographic politics, no Jammu popular political party can ever have a majority in the Assembly. The valley ensures by means fair or foul to capture at least 38 seats to form a government proceeding on the premise that a valley-based party cannot capture many seats in Jammu. Thus

in the elections of 1977, 1983 and 1987, NC retained nearly all seats in the valley (by whatever means it could). Additionally, the valley's main ruling party does not hesitate to capture a few seats in Muslim pockets of Jammu regionaly playing the sectarian card. This naturally causes political impotency to Jammu political parties which subsequently articulates in deepening of a sense of alienation and deprivation.

Identity to Ethnicism

A section of urban educated middle class of Jammu-Udhampur belt has been shifting between regionalism and nativism. So far the admirable role of Jammu intellectuals, sections of press and general masses has succeeded little in objectively harnessing their discontinent. More is needed to be done in contouring socio-demographic profile of Jammu region. Broadly speaking Bhaderwah-Doda belt has strong regionalised culture closer to Basohli-Chamba-Anantnag pattern. Poonch-Rajouri and Duggar·land (latter extending from Samba and Reasi) are entities by themselves. Thus Jammu identity is made to recall to mind Duggar identity ignoring the other components. Be it clear that the Duggar zone has some genuine grievances which might call for arousing Jammu identity spectrum. Heavy influx of refugees in 1947 from POK and their concentration in Jammu-Udhampur urban areas not only threatened but to a considerable extent sidelined the native Dogra in various aspects. Gradually capture of trading apparatus by the Punjabi element made inroads into economic and cultural life of the Duggar. Migration of people in large numbers from Jammu hinterlands to the urban areas, especially Jammu the regional capital further restricted spiral and linear expansion of the native Dogra. More recently migration of about 2 lac Kashmiri Pandits to Jammu became a psychological burden for the native Dogra who finds Jammu's intake capacity further decreased and squeezed. It has also to be noted that Muslims of Doda and Buderwah, though culturally and linguistically a mix of two cultures, have, for economic reasons been exploiting their majority-minority status to maximize their interests. It is the Duggar zone which is called to carry this burden. 30% population of Doda district accounts for 5 out of 7 Assembly seats to the region. One of the remaining two is the traditional Muslim seat of Ramban.

Gripped by a squeezing process, the native Dogra of this belt feels that his cultural identity is in danger which, reduced to simpler terminology, should mean political identity. But in terms of economic grievances also, native Dogra feels marginalised by the old and new migrants, urban

migration and extending Punjabi diaspora. In this scenario, appeal to pure Jammu identity-Duggar identity-strikes an emotional chord with the native Dogras.

But cultural identity of native Dogra's hardly makes appeal beyond the confines of Jammu-Udhampur belt. For instance Doda district with 30 percent speaking Kashmiris is culturally more receptive to Kashmir valley. With the entry of Scheduled Caste, OBCs, Gujjars and emergent rural middle class in the job market and with given discriminatory state/central governments, the Jammuite old migrant and native Dogra of established castes in particular feel shrunken. Add to this limited job opportunities, low trade potential and limited industrial development, and the mix accentuates sense of alienation. Accelerated economic activity owing to large migration from Kashmir and Vaishno Devi pilgrimage is a temporary relief to economic depression of the Duggar belt. Unless the Duggar elite rallies round Jammu hinterland, market economy factor will continue to enjoy precedence over identity factor. In the process genuine political deprivation gets drowned in peripheral issues.

Futurist View

Jammu political leadership and civil society, therefore, shall have to decide whether it stands for cultural identity of the Duggar zone or for more viable, healthy, unified secular political identity of Jammu region. At no cost should sub-regions of Jammu be alienated not ethnicisation and exclusiveness given quarter. From selectivity, it must move to universality because it is only the concept of universality which can accommodate religio-ethniclignuistic heterogeneity of the region. Thus Jammuite is one who lives in Jammu region and Jammu identity demands equitable proportional infrastructure. If deprivation is perceived to be mainly administrative. The only employment politics will be taken care of an political justice gets submerged. Articulation of political identity has to be in positive terms otherwise short-listing political priorities will prove as disastrous as the landscape in the valley. Perhaps the earnestness of settling inter-regional and intra-regional interests might necessitate a new constituent assembly to go through the entire gamut of the problem. Political decentralization of three regions with administrative unity and with full constitutional conventional and institutional guarantees for regional minorities in each region seems to be the most important task.

Courtesy: Kashmir Times, Dec. 23, 1993

LADAKH, NOT JAMMU AND KASHMIR CENTRE'S PRIORITY

Altaf Hussain

Ladakh, the desert region of Jammu and Kashmir, is taking precedence over the strife-torn valley, in the Centre's priorities. Or is it?

Early this month, Union Home Minister, Mr. S.B. Chavan, and the Jammu and Kashmir Governor, Mr. Grish Chandar Sexena, held talks with the Ladakh Buddhist Association (LBA) in New Delhi on the latter's demand for a district hill council for Buddhist majority Leh. The few Muslim leaders from Leh and Kargil, who attended the meetings, were given to understand that the government was inclined as having said that he was prepared to bring a Bill in Parliament for the purpose.

More Muslim leaders were invited to join the official-level meeting which was held four days later on April 13. They were asked to give their reactions on the LBA's memorandum and were reportedly told that Kargil could have a similar dispensation as Leh. The next meeting has been fixed for May 20.

Sweeping Powers

The LBA has, in its memorandum, asked for sweeping executive, legislative and judicial powers for the proposed district council as provided for in the sixth schedule of the Indian Constitution. However, the sixth schedule, which relates to the administration of tribal areas in Meghalaya, Assam and Mizoram, does not apply to Jammu and Kashmir. Obviously, if the Centre decides to concede the LBA'S demand, that would require an amend-

ment in the Constitution of Jammu and Kashmir. Legal experts say that the President of India or, for that matter, Parliament, cannot do that under Article 370.

Even if there were no Constitutional hurdles involved, the situation in Kashmir valley, which the authorities have often described as "War like", should be taken into account before conceding the LBA's demand, unless the government has some compelling reasons to go ahead right now. In fact, the important question is not whether Parliament can amend the Jammu and Kashmir Constitution: the issue is whether it should. Or to put it another way, the point is not whether the religious-ethnic aspirations of the Ladakhi Buddhists should be satisfied or not: the question is who will decide?

Today, the Kashmiri militants and their supporters are demanding the state's complete secession from India. But the situation has come to this pass primarily because of the gradual erosion of the state"s special status and the aggressive assertion of Hindutva to give the Indian polity a different texture. It was, probably, with this realisation that Mr. Chavan and Mr. Saxena, have many times, during the past year, offered to discuss the quantum of autonomy for the state to defuse the present crisis. There have, of course, been no takers for the offer so far. But, as observers point out, the government has, by just giving a serious thought to making structural changes in the Jammu and Kashmir Constitution. Conveyed to the alienated people in the valley the message that it is not prepared to accommodate their subnationalist urges and aspirations. The impression that has been conveyed to Kashmir is that the home ministry has pinned all its hopes on the strength of the security forces and has given up the option of a political approach. Finding that hard to believe, the Muslim leaders from Kargil, who have neither accepted nor rejected the idea of self-government for the two desert districts, asked the home minister whether the proposed move would be advisable in the context of the turmoil in Kashmir valley.

The apparent reason for the Centre's haste in coming to a settlement with the LBA is the latter's threat to resume the stir which rocked the land of lamas in 1989. But observers warn that any kind of autonomy for Leh or the whole of Ladakh region would open the Pandora's box. They recall that when Ladakhis were given the scheduled tribe status three years ago. There were similar demands from other communities, and these had to be conceded. Similarly, there were violent agitations in the many parts of the val-

ley, following the creation of new districts in 1980. Once Ladakh is given any kind of autonomy, Jammu is likely to resume the stir for the same cause.

It is hard to believe that the government is unaware of these implications. However, an impression has gone round that the Union government is developing cold feet on the LBA's demand following the strong reaction from the former M.P., Mr. Saifuddin Soz and the Jammu and Kashmir Predesh Congress President, Mr. Ghulam Rasool Kar. Whatever may be the case, the government has raised the expectations of the LBA, thus aggravating the problem further. The same thing was done in October, 1989, when the then Union Home Minister, Mr. Buta Singh, rushed to Leh and promptly got the LBA, the state government and the Centre sign a tripartite agreement. The government then agreed to consider the demand for an autonomous hill district council for Leh in order to find a "satisfactory and mutually acceptable solution to the problem". It is widely, believed in Ladakh that the central government wanted at that time the LBA agitation called off so that parliamentary elections could be held in Ladakh, which the party was sure of winning. Ironically, the party's candidate lost the seat, probably for the first time.

The LBA, which lay low for almost two years since early 1990, renewed the threat of a stir only after the Congress Party's return to power at the Centre last year. Mr. Thupstan Chhewang (LBA President) and his party colleagues believe that with Mr. Buta Singh having worked out the 1989 agreement, the Congress Party is committed to solving the problem of Leh. And Mr. Singh's successor, Mr. Chavan, responded rather more enthusiastically than they, perhaps, could expect. Addressing a press conference in New Delhi last December 26, he said he was "seriously thinking of going to Ladakh where tension persisted between the Buddhists and Muslims in Kargil over the issue of building a pagoda which the Muslims were resisting.

Government's Plan

This he said in reply to a question about the government's plans for solving the Kashmir imbroglio. Mr. Chavan in fact claimed problems in the valley were well under control. True, the Ladakh Buddhist Association (LBA) has been seeking to build a pagoda in Kargil proper, to which the local Muslims are objecting on the ground that there is no Buddhist population in the town. But Mr. Chavan choose not to forget that the hot-bed of tension

was Leh where the Buddhists have been boycotting the Muslim minority since mid-1989.

What, however, is more significant is that Mr. Chavan put the spot-light on the trouble in Ladakh describing the chaos in the valley as a "little problem". No wonder, the government is seeking to settle the problem of Leh even at the risk of aggravating the situation in Kashmir.

Courtesy: The Times of India, April 24, 1992.

GETTING BACK TO DELHI AGREEMENT

Hari Om

Things in Jammu appear moving towards a full-scale movement of "liberation from Kashmir. Two crucial factors seem to have stirred the people of Jammu and aggravated Jammu's political scene. First, there is growing realisation that the Centre may once again throw in the lot of Jummuites with Kashmiris and sacrifice their legitimate political aspirations in a desperate bid to purchase peace in Kashmir, which has been witnessing secessionist violence for the last two-and-a-half years.

Secondly, the suggestion that "the future status of the State of Jammu and Kashmir should be based on the Delhi Agreement — agreement envisages larger autonomy, bordering on sovereignty which was arrived at in 1952 as a result of discussions between the Government of India and representatives of Jammu and Kashmir (of Kashmir alone) headed by Sheikh Abdullah". This idea has been mooted by leaders of various political parties having some clout in Delhi. Leading columnists, former bureaucrats and politicians including Syed Mir Qasim, Dr. Farooq Abdullah, Mufti Mohammad Syed, A. G. Noorani, Kuldip Nayar, Pran Chopra, Prem Shanker Jha, Ajit Battacharaiji, Nrimal K. Mukerji, P. K. Dave, P. N. Dhar. Some of them have even suggested restoration of the "1947 Political Status", "independence (of the State) in stages on the model of Bhutan" and "autonomy to the point where it is almost indistinguishable from independence".

What would be the consequences of the application of the 1952 Agreement? These would be: (a) revival of Permit System for the abolition of which Dr. Shyama Prasad Mukerji, Bhartiya Jana Sangh President, and other leaders of the All Jammu and Kashmir Praja Parishad sacrificed their lives

in 1952-53; (b) inability of the Indian Parliament to legislate on matters other than Defence, Foreign Affairs and Communications; (c) withdrawal of all the Central laws extended to the State since August 9, 1953; including the jurisdiction of the Supreme Court, Election Commissioner and Comptroller and Auditor General of India; (d) withdrawal of Article 372 of the Indian Constitution under which the All India Services where extended to the State in 1958 as also reservation for the Scheduled Castes and Scheduled Tribes; (e) change in the nomenclature from the Governor and Chief Minister to the Sadar-e-Riyasat and Wazir-i-Azam; and (f) restoration of Section 75 of the State Constitution which would empower the "State Council of Ministers"to act as the "final interpreter of the State Constitution". The application of the agreement, in addition, would mean committed judiciary, committed Sadar-e-Riyasat and replacement of parliamentary form of government by a local oligarchy, with Delhi having no authority whatsoever.

Messers Kuldip Nayar, P. N. Dhar, Mir Qasim, P. N. Dave and others have sought to justify excessive autonomy or absolute powers to Kashmir on the ground that it is a prerequisite for the preservation and promotion of the so-called "Kashmiriat" as also for "ending" the alienation of Kashmiri Muslims from mainstream politics. But what they have failed to justify is the wholesale application of the Delhi Agreement to the entire State, including Jammu and Ladakh, where the attitude towards India has all along been different.

It is pertinent to mention here that the people of Jammu and Ladakh are labouring hard to link their destiny with India by severing their political links with Kashmiris, whose demands range from "Azadi" to secession to the pre-1953 political set-up. They view Jammu's clamours for "full integration with India" and "application of the Indian Constitution in toto" as an erosion of "Kashmiriat" and manifestations of communalism.

The people of Jammu have been recognising that whatever advance they seek must be within India and under the Indian Constitution despite the fact that Delhi has been indifferent to their cause. In fact, the slogan of separate Jammu State within India (or at least regional autonomy under Article 371 of the Indian Constitution) has already gained momentum with the resolve of the Jammu-based political outfit, including the Bharatiya Janata Party, to forment agitation to achieve emancipation from Kashmir and resist the onslaught on Jammu's political aspiration and rights and economic opportunities.

The attitude of the Buddhists in Ladakh and Kashmiri migrants is no different. The Buddhists have threatened to launch "an armed struggle" to "liberate themselves from Kashmiris" and force Delhi to honour and implement the 1989 tripartite agreement in its entirety providing for the setting up of an autonomous Hill Council for the Ladakh. The Kashmiri Pandits, who have vacated the Valley in view of the fear of AK-47 and threat to their person are languishing in miserable conditions in Jammu, Delhi and elsewhere, have adopted on May 10-11, 1992, an unambiguous resolution, demanding "a homeland for the Pandits in the "Valley" and the "right to self-determination in case the same is granted to Kashmiri Muslims".

In view of these developments in Jammu and Ladakh and in the community of "Kashmiri Pandit refugees", it appears ludicrous that certain persons, who in order to end the alienation of Kashmiri Muslims from the national mainstream, have come out with a solution which is unacceptable to the people of Jammu and Ladakh besides the Kashmiri Pandits. If we must delink Jammu and Ladakh from Kashmir and provide sufficient safeguards for pandits through a statute so that they could lead a peaceful and honourable life and mould their political future unhindered.

Jammu and Ladakh, it must be borne in mind, will not allow Delhi to confer greater autonomy on Kashmir. Both regions fought against the Delhi Agreement in 1952-53 under the extremely skilful and effective leadership of Dr. Shyama Prashad Mukerji and Kushak Bakula, the Head Lama of Ladakh, and forced Delhi to pull down Sheikh Abdullah's government. Jammu and Ladakh will again retaliate with full force the moment it is implemented.

What is required to mollify and conciliate Jammu and Ladakh is their political empowerment. This should prove safe enough. Once it is done, Delhi can start negotiations with Kashmiri leaders to find out what could satisfy their political urges, minus "Azadi". If the feeling of neglect of Jammu and Ladakh is not to erupt into violence, steps must be taken to grant them more powers, political and economic.

Courtesy: The Hindustan Times, June 15, 1992.

The attempt of the Buddhists in Ladakh and Kashmiri refugees is no different. The Buddhists have threatened to launch "an armed struggle" to liberate themselves from "Kashmiris" and force Delhi to discard and replace the 1949 unitary arrangement in its entirety, providing for the setting up of an autonomous Hill Council for the Ladakh. The Kashmiri Pandits, who have vacated the Valley in view of the fear of "AK-47" and threat to their person and are languishing in miserable conditions in Jammu, Delhi and elsewhere, have adopted on May 10-11, 1992, an unambiguous resolution, demanding "a homeland for the Pandits in the "Valley" and the "right to self-determination in case the same is granted to Kashmiri Muslims".

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What is required to modify and reconstitute Jammu and Ladakh is their political empowerment. This should prove safe enough. Once it is done, Delhi can start negotiations with Kashmiri leaders to find out what could satisfy their political urges, minus "Azadi". If the feeling of neglect of Jammu and Ladakh is not to erupt into violence, steps must be taken to grant them more powers, political and economic.

Courtesy: The Hindustan Times, June 13, 1992.

Section - F

KASHMIRIAT: A PARADOX OF NATIONALISM

In the Wake of the ethnicity and militant fundamentalism that have gripped the vale of Kashmir, the state needs to emerge from the shadow of the crippling paradox of Kashmir's nationalism,
says ***Ashutosh Varshney,***
Assistant Professor of Government at Harvard University.

Events have come full circle in Kashmir. In February 1948, Sheikh Abdullah, head of the National Conference, made a long and impassioned speech in the Security Council:

> ".....the (Pakistan) raiders came to our land massacred thousands of people — mostly Hindus, Sikhs but Muslims too — abducted thousands of girls .... looted our property and almost reached the gates of our summer capital, Srinagar ... I had thought all along that the world had got rid of the Hitlers ... but from what is happening in my poor country, I am convinced they have trans-migrated their souls into Pakistan".

These were strong words. Disapproval of Pakistan and gratitude towards India could not have been more unequivocal.

Four decades later, equations in Kashmir have changed drastically. Kashmiris are now fighting India's security forces, not Pakistan-backed invaders. In a place known for its quietistic, syncretistic Islam, militant Islamic fundamentalism has acquired a foothold. The fire of nationalism,

ethnicity and religion has consumed over 2,000 lives. So, what went wrong? Why is Kashmir burning?

Much has been written on Kashmir but the key issues remain clouded. The urge to understand has all too often been overpowered by a tendency to accuse that India went back on the promise of plebiscite, that Pakistan fished in troubled waters are the customary changes. In *India: The Siege Within*, M.J. Akbar has provided a well-crafted account of developments between 1947 and 1982 (the year Sheikh Abdullah died). If you are untroubled by his obvious admiration for Sheikh Abdullah, it is also by far the best account of the Kashmir problem.

In *Kashmir: Behind the Vale*, Akbar updates the story to the recent insurgency. More importantly, in an attempt to understand the nature of Kashmiriat, he also examines Kashmir's turbulent history. Available histories, folk-songs and poems suggest that Kashmiriat is "a culture of synthesis, understanding and humanism".

After exploring the historical roots of synthesis, Akbar discusses the modern period. Given his intense dislike for religious nationalism, the list of heroes and villains is predictable. Nehru and Sheikh Abdullah emerge as heroes, their greatness dwarfing their mistakes. His list of villains is longer: Maharaja Hari Singh, Mohammad Ali Jinnah, Liquat Ali Khan, Shyama Prasad Mukerji and last but not the least, Jagmohan. Muslim nationalists like Jinnah would not grant that for the several Muslim communities, including the Kashmiris, Islam was not ideology but a culture lived differently in different places. Hindu nationalism could not overcome its basic article of faith, Muslim disloyalty to India. Both religious nationalisms were uncomfortable with the cultural and political variety of India's Muslims.

From Akbar's account, three reasons can be pulled out as an explanation for Kashmir's continued problems: the two religious nationalism — one claiming Kashmir, the other suspicious of Kashmir, the centralising tendencies of Indian policies that would unfairly, and sometimes cruelly equate Kashmir's just desire for autonomy with secession; and Kashmiri politicians, both well-meaning-politicians like Sheikh Abdullah and Farooq Abdullah who made mistakes and the self-aggrandising politicians who lacked ideological convictions but not a passion of power. Akbar places Gul Mohammad Shah and Mufti Mohammad Syed in the latter category.

Kashmiri nationalism faces two objections about its consistency. First, if Kashmir's leaders did not choose Pakistan despite religious affinity but opted to stay with India on grounds of secularism, shouldn't it also mean that Kashmiri nationalism is a sub-set of Indian nationalism and therefore Kashmir, with state-level autonomy, a part of the Indian federation? What justification might there be for an independent Kashmir except bad faith and opportunism (Kashmir, after all, was saved from Pakistan's occupation by India's army in 1947-48)?

In his person, Sheikh Abdullah, the most notable of Kashmir's leaders, embodied this paradox. He fluctuated between accession to India and independence. His rejection of Pakistan is unambiguous. Even more important, Abdullah recognized the link between Kashmir's accession to India and India's secularism. In his address to the Jammu and Kashmir constituent assembly in 1951, he argued:

> "Certain tendencies have been asserting themselves in India which may in the future convert it into a religious state wherein the interests of Muslims will be jeopardized..... The continued accession of Kashmir to India should, however, help in defeating this tendency. From my experience of the last four years, it is my considered judgement that the presence of Kashmir in the Union of India has been the major factor in stabilizing relations between the Hindus and Muslims of India".

Having seen this link, however, Abdullah later dithered. Should Hindu nationalists triumph in the struggle for power in Delhi, he asked, would Kashmir be secure in India? Looking back, it is hard to see why Abdullah and secularists in Delhi were so afraid of Hindu nationalism. If anything, Hindu nationalism, after the fratricidal violence of 1947 and the assassination of Gandhi in 1948, declined in the 1950s. It was only in the 1980s that Hindu nationalism had risen to political visibility and strength. An ex-post perspective is, however, misleading, amounting to reading history backwards. If we wish to reconstruct the universe of how leaders behaved, an ex-ante perspective would make greater sense, in which case the fact that Hindu nationalism declined in 1950s is less important than the fact that political leaders were afraid it would rear up again. Those who saw the communal madness accompanying India's partition could not quite fully distance themselves from their political socialisation. Precisely to fight Hindu nationalism, secularists like Nehru in Delhi needed Abdullah's unqualified support.

Abdullah was not sure of the longevity of secularism; his unequivocal faith was, however, required for imparting longevity to secularism. Kashmir has still not emerged from the shadow of this crippling paradox.

Uncertainty about the future of secularism is not the only way to explain Abdullah's vacillations. That is the explanation Akbar gives. It has often been argued that Abdullah was aiming at independence with the help of the British and the Americans. In the Siege Within, Akbar had dismissed this proposition as a fantasy of the paranoid Hindu mind. The recently declassified documents of the State department give credence to the Hindu nationalist claim. Loy Henderson, ambassador in Delhi, wrote to the US Secretary of state on September 19, 1950:

> "While in Kashmir, I had two secret discussions with Sheikh Abdullah.....at his request. He was vigorous in restating that in his opinion (Kashmir) should be independent; that overwhelming majority population desire this independence".

How does one interpret Abdullah's equivocation between independence and full accession? Two interpretations are possible. Firstly, that Sheikh Abdullah was speaking the language of integration to Delhi and of independence to Washington, precisely the kind of duplicity that, according to Hindu nationalists, was mindlessly ignored by Nehru; and secondly, that Abdullah dithered on full integration because he was unsure how long Indian secularism would survive. Research in the coming years should establish Abdullah's motivations; at this point, one has to give him the benefit of doubt. That is, one can still go with Akbar while keeping one's mind open about the first possibility. One should add that Farooq's commitment to India, as opposed to his father's, is undeniable. On this issue, there is absolutely no trace of vacillation in his politics.

The second inconsistency in Kashmir nationalism is even more serious. What is generally called the state of Kashmir happens to be the state of Jammu and Kashmir (J&K). The Jammu and Kashmir State has three ethnically separable geographical regions — a Dogra Hindu-majority Jammu, a Muslim-majority Kashmir and a Tibetan Buddhist-majority Ladakh. If Kashmir nationalism is not based on religion but on Kashmiriat, a separate Kashmiri ethnicity, then it has to be realised that ethnically the Buddhists in Ladakh are Tibetans, the Hindus of Jammu are Dogras, and the Muslims of Jammu are Punjabis. Moreover, Jammu has nearly 45 percent of the state's

population. In contrast to Kashmir Valley, where Muslims were 95 percent of the population and Hindus a mere 5 percent, the Hindus in Jammu are nearly two-third of the population with the Muslims roughly constituting the other third. An ethnic notion of independent Kashmir cannot carry the entire state without being internally inconsistent, particularly if non-Kashmiri groups do not wish to join such a state.

Sheikh Abdullah had a solid popular base in the Valley, not in Jammu from where the Maharaja, against whom his party had been agitating since 1931, came. He was not popular among the Jammu Muslims either. Another political organisation, the Muslim Conference, represented Jammu Muslims. The leaders of this organisation migrated to the Pakistani side of Kashmir after partition. When Sheikh Abdullah became the head of the government on the departure of the Maharaja, power shifted from Jammu to the Valley. Thus emerged the Jammu factor in Kashmir politics, a factor ignored by Akbar. Jammu's political leaders had an unequivocal stand on the relationship with India: they wanted full and unconditional integration. On a basic issue, then, the two larger parts of the state, the one slightly bigger than the other, ran into conflict. Abdullah could not have Jammu and subject it to Kashmir hegemony, while making an argument about Delhi not appreciating Kashmiri aspirations. This contradiction, too remains unresolved.

All three nationalisms involved in Kashmir — the religious nationalism of Pakistan, the secular nationalism of India and Kashmiriat — are seriously compromised. Rationally and analytically, one cannot say one is superior to the others. Emotions dictate one's preferences. Rise of a fourth nationalism, Hindu nationalism, may well make a solution of the Kashmir problem even more messy, for it will be opposed to a Indian-Pakistan compromise without which the problem cannot be solved.

Courtesy: The Illustrated Weekly of India, August 31, 1991.

INDEPENDENT KASHMIR: A DANGEROUS PLOY

Fazal Qureshi

In his recent briefing to editors, the newly elected Prime Minister of Azad Kashmir Sardar Abdul Qayyum Khan placed all his emphasis on one fundamental point — that Pakistan should not show any weakness in its traditional stand that Kashmiri people be allowed to exercise their right of self-determination to accede to Pakistan.

As he explained the need for this reaffirmation of Pakistan's commitment to the right of the Kashmiri people to become part of Pakistan arose because a number of new found proposals for the solution of Kashmir issue were being floated. These ideas were being projected not only in the Western media but also in the Indian Press. He was of the firm view that the recent increase in the visits of American, British and European Parliamentarians to Pakistan and Azad Kashmir was not a coincidental occurance but part of a well-coordinated plan, sponsored by Indian sympathisers in the West, to "take India off the hook" in Kashmir, in a way to enable it to get away with the choicest portion of the Kashmir pie.

The alarm bells sounded by the Azad Kashmir Prime Minister, should not be ignored. It is a fact that not to speak of the aliens, there are influential segments of our own society who have no clear perception of the vital importance of Kashmir for Pakistan. In their naivety or lack of proper comprehension they appear to be too keen and willing to "get rid of the burden of Kashmir" on the basis of some kind of compromise with India. To them, in view of India's many times stronger military might the Kashmiris can never hope to overthrow Indian occupation of their homeland and secure their birth right of self-determination despite guarantee of the United Nations resolutions, accepted by both India and Pakistan.

This section of our public opinion appears to be mentally inclined towards a compromise solution on Kashmir. According to Sardar Abdul Qayyum Khan the exponents of this view point are found not only among our political leadership, but also among the top brass in military, civil services and the foreign office. This readiness for a compromise, howsoever, ill-conceived is based on their sincere belief that a compromise offers the only practical way out of the festering sore that has poisoned relations between India and Pakistan for over four decades now.

There is also no doubt that a Kashmir solution based on a compromise offers an attractive, and easy to gain proposition in a highly frustrating stalemate situation. A number of such compromises are being openly presented and debated in the international media. And there are strong grounds to suspect that many of these proposals have emanated from India sources with the covert blessings of the Indian leadership who has now started feeling the pinch of prolonged resistance of the valiant Kashmiri freedom-fighters. It appears that Indian policy planners and diplomatic tacticians hope to turn even this situation of apparent discomfiture to their advantage by dangling it as a golden opportunity for a settlement of the Kashmir issue on a give and take basis. In support of their "opportunity of the decade" theory they have some very tempting arguments. Firstly the Nehru dynasty which had a vested and deeply egotistic interest in keeping Kashmir under the Indian heels has not disappeared from Indian political scene. Secondly, despite all the hardline talk of Kashmir being an "integral part of India" there has always been a tacit realisation among the Indian political leadership and enlightened public opinion that Kashmir is not really a constitutional and territorial part of India in the sense in which Punjab or Bengal or Assam are.

That is why all through these years, while harping on their rights over Kashmir, India at the same time acknowledged Kashmir as a dispute with Pakistan to be settled through negotiations. And despite their insistence on their legal rights on the whole of Kashmir (through an accession deed of the now deposed Dogra dynasty), frequently hints were dropped that present line of control between the two countries could be turned into a permanent line of division.

Pakistan of course, has all along insisted, that any settlement of the Kashmir issue must be based on the will of the people of Kashmir as expressed through a free and fair plebiscite under UN supervision. But it is

also a well-known fact that both in Pakistan and Azad Kashmir, in official as well as public circles, there have existed lobbies advocating varied solutions of the Kashmir issue in a way satisfactory to all parties, India, Pakistan and the people of Kashmir.

These lobbies have advocated different solutions to the issue. First of course is that the entire state of Jammu and Kashmir, both in Indian and Pakistani control be given the right of self-determination to choose between joining India or Pakistan in accordance with similar option given to Indian states at the time of partition.

To any impartial observer this would appear to be the most sensible proposal and in line with the prevailing mood of the world public opinion in which the right of self-determination is being advocated for many states. The most dramatic manifestation of this is currently being witnessed in the Soviet Union where member republics are being offered a Constitutional procedure for secession from the Soviet entity. The resurgency of this philosophy of self-determination in various nationalities of Yugoslavia, is another example. Even in the under-developed world the people of Eriteria are going to have an opportunity to exercise their right of self-determination. Therefore, if states are allowed to secede from unions why can't the Kashmiri people decide their own future.

However, keeping in view the compulsions of the situation on the ground there are other proposals. Hence the second proposal: i.e., to divide Kashmir between India and Pakistan. Indian leaders have several times in the past hinted on the division of Kashmir on the present line of control which has been rejected by Pakistan out of hand.

Firstly, Pakistan has always thought that unless there is a serious Indian move to settle Kashmir dispute through mediation it would be vain to weaken our bargaining stance by merely discussing the principle of division. Secondly, the proposal to divide Kashmir between India and Pakistan on the present line of control is totally unacceptable because it leaves a large chunk of Muslim-dominated Kashmir in the hands of India.

However, official and public circles in Pakistan have toyed with the idea of dividing Kashmir on the same principle of which the partition of India took place in 1947, i.e., Muslim majority Kashmir should go to Pakistan while Hindu-dominated Kashmir should go to India. On this basis In-

dia gets Hindu-dominated Jammu while Pakistan gets the present Azad Kashmir and the Muslim majority areas of Indian -held Kashmir. To many political observers in Pakistan this solution appears to be one plausible way out of the present Kashmir impasse. And it could also satisfy the aspirations of the Muslim and Hindu populations of the state of Jammu and Kashmir.

There is, however, a third proposal also, the independence of Kashmir. This is a proposal which has surfaced only recently, and appears to command the support of only limited group of idealists in and outside Kashmir. The exponents of this idea demand that both India and Pakistan should wash their hands off Kashmir and let it emerge as an independent nation. After all, goes their line of argument, if Nepal and Bhutan could be independent, why can't Kashmir be independent. The idea is strongly opposed not only by the Government of Pakistan but also by the leading political forces in Azad Kashmir. Even in the Indian occupied Kashmir, there is not much support for this idea. Looking at Pakistani flag that often display the pro-Pakistan slogans always raised by the freedom-fighters in the Valley, there should be no doubt that Kashmiris want to be part of Pakistan.

But still, as AJK Prime Minister, Sardar Abdul Qayyum Khan has said there are supporters of this idea even in our government and the foreign office. These people argue that creating an independent state of Kashmir is one way of getting the whole of Kashmir out of Indian clutches. An independent Kashmir, the reason, with its over whelming Muslim majority, will always be a strong ally of Pakistan. Secondly, because of its geographical location, an independent Kashmir would be dependent on Pakistan for its trade and other necessities of life. And at a suitable time might even decide to merge with Pakistan. This school of thought therefore, regards independence of Kashmir as a first step towards securing the whole of Kashmir for Pakistan, or at least out of Indian occupation.

But as Sardar Qayyum said this proposal should be totally rejected. Firstly, because it does not enjoy the support of the vast majority of the people of Pakistan. Secondly, an independent Kashmir would not be something which India could offer if at all, to anyone on a silver platter. The Indian Government would insist on safeguarding its interests and rights and those of the Hindu population in a independent state.

We must understand that all these counter proposals which are being tossed around in World Press and international forums are not without

sinister design. They are meant to deflect us from our long-standing demand of self-determination under UN resolution. India is on the hook, not only due to Kashmir resistance but also due to existence of a strong legal basis for self-determination by the people of Kashmir. Once Pakistan agrees to discuss other possibilities it will have to scuttle its insistence on the implementation of the United Nations resolutions on Kashmir. This is the kind of game India tried to play in Simla Agreement i.e., to limit Kashmir issue as a bilateral dispute between the two countries.

The idea of independent Kashmir is a mischievous ploy to sidetrack the whole issue. It is a dangerous trick of depriving the people of Kashmir and Pakistan of their most cherished aspiration of living together as one nation. Their common bonds of religion, culture, and geography and history leads only to one conclusion that Kashmir should become part of Pakistan. To hope that Pakistan can get the whole state of Jammu and Kashmir through the devious route of independence is a foolish expectation.

Pakistan should firmly stand on its policy of demanding a plebiscite for the people of Kashmir and should not accept anything less than the unqualified and undiluted right for the people of Kashmir to decide their own future, to choose between India and Pakistan. The choice of independence was never a part of the scheme of Indian partition and was not given to areas like NWFP, Sylhet and Hyderabad Deccan. It was either India or Pakistan. We should not lose sight of this most righteous and legally sound goal. Kashmir and Pakistan are an inseparable entity.

Courtesy: The Nation(Pakistan)

THE THIRD ALTERNATIVE - INDEPENDENT KASHMIR

B. P. Sharma

From Maharaja Hari Singh to Mian Nawaz Sharif many other politicians have thought of and nurtured the idea of an independent Kashmir, but everyone who advocated it, has a different motive.

Mr. Durga Dass, a former editor of the "Hindustan Times" wrote in his introduction to Vol. 1 of Sardar Patel's Correspondence.

> "The late Maharaja of Kashmir and Sheikh Abdullah, who had little in common, shared and worked in their own way for a similar objective, namely, an independent Kashmir. If they acceded to India it was because Pakistan, by invading the State, left them with no other choice".

Maharaja Hari Singh, the first to dream of an independent Kashmir as soon as the British announced their decision to quit India and grant independence to the vast dominion of India, wanted to remain independent King of Jammu and Kashmir, Tibet, etc. His Guru, Sant Dev, is known to have assured the Maharaja that his flag would also fly over the Fort of Lahore.

Maharaja Hari Singh did not make a secret of his intentions. As early as July 15, 1946, he gave an indication of his in his announcement at what was described as the "Darbar-i-Aam" held at Srinagar. In the course of his Announcement, the Maharaja said;

> "But our concern for the progress of India does not apply acceptance

> by us of dictation in our internal affairs, particularly when such a course entails interference with the full and free operation of the law, and thereby endangers the security and orderly course of life to which every peaceful and law-abiding citizen is entitled. Kashmir is known for its beauty throughout the world, and I least of all, would wish to deny to any person free access to it".

Even in his letter dated October 26, 1947, addressed to Lord Mountbatten, Governor-General of India, requesting acceptance of his Instrument of Accession to India, the Maharaja referred to his idea of independent Kashmir in the following words:-

> "I wanted to take time to decide to which Dominion I should accede to whether it was not in the best interest of my State to stand independent, of course with friendly and cordial relations with both".

In actual practice Jammu and Kashmir remained an independent State from August 15, 1947 to October 26, 1947, till India accepted the Instrument of Accession on 27th of October, 1957.

Maharaja Hari Singh had realized, belated though, when the tribal raiders backed by regular Pakistani forces were knocking at the very doors of Srinagar, that the idea of independent Kashmir was an idle dream. Alas instead of flying his flag over the Fort of Lahore, he could not save his own flag flying in the State which his forefathers had carved, over hundred years ago. A heavy price indeed.

Sheikh Mohammad Abdullah came to power as Prime Minister of the State on March 5, 1948, had earlier demanded "freedom" for Kashmir from autocratic rule of the Maharaja. He was instrumental in getting Pandit Nehru agree to the acceptance of the Maharaja's Instrument of Accession. It has been acknowledged by Justice Mehr Chand Mahajan the then Prime Minister of Jammu and Kashmir, in his book "Looking Back", that but for the Sheikh's intervention Nehru would not have accepted the Maharaja's belated request.

But winds of distrust began to blow against him as soon as he announced the revolutionary step that all the big landed estates would be brought to an end and the land would be given to the actual tillers without any compensation to the original owners. All the Jagirs granted by the Mahara-

ja were abolished and the "Abolition of Big Landed Estates Act" was enacted. This affected a large number of Hindu absentee landlords. Coupled with this his demand for removal of Maharaja Hari Singh from Jammu and Kashmir was much resented by the majority of the Hindu population who had identified their interests with the Ruler.

During the very first year of his administration Sheikh Abdullah felt he was not being trusted by majority of the Hindu population of the State nor by many others in the Delhi Durbar. Unlike other States not a single pie was given as "aid" by Central Government and he was asked to apply for loan. He had inherited an almost empty treasury and found no other way except to apply for loan to run the administration. He, therefore, began to have second thoughts over the accession, the first sign of which surfaced in May, 1949, in an interview he gave to Mr. Michael Davidson, correspondent of the "London Observer" and the "Scotsman". Following is the report as published in these newspapers:

Abdullah said to me the other day: "Neither with India nor with Pakistan can we have peace. In a sudden deviation of his policy of the incorporation of Kashmir in the Indian Union, he urged that its independence should be guaranteed not only by the two Dominions but also by the United Nations. If the Punjabis of Poonch area and the Pathans of Gilgat wanted to choose Pakistan, let them do so, he said, but for Kashmiris, whose whole economy depends on free access for visitors from the entire subcontinent and a free flow into the "RICH" markets of the world for Kashmir luxury goods, perhaps some form of neutrality between the Dominions was the only solution".

Almost the same interview was granted him to Mr. Ward Price of the "Daily Mail", London.

Wavering Mind

The interviews quoted above were much resented by the Delhi Darbar. On May 18, 1949. Sheikh Abdullah retraced his earlier statement. He told a Press Conference at Delhi that he was quoted out of context. The Sheikh said:

> "It is absurd to say that Kashmir still thinks of any other alternative so far as the question of accession is concerned. What we want is

peace and prosperity for our people. Independence may be and is a charming idea, but is it practical too? Are all the countries concerned in a proper political temper at present moment to give their willing and sincere assent to it? After a formal declaration of independence, shall we not be making Kashmir a victim of some unscrupulous odd powerful country? That will be a great betrayal of the cause we have stood for all these years".

Constituent Assembly

The Constituent Assembly of Jammu and Kashmir was convened, among other things, to ratify the accession. On November 5, 1951, Sheikh Abdullah in his opening Address, discussed the third alternative also.

After describing the advantages and disadvantages of final accession to India or Pakistan he said:

"The third course open to us has still to be discussed. We have the alternative of making overselves as Eastern Switzerland, of keeping aloof from both States, but having friendly relations with them. This might seem attractive in that it would appear to pave the way out of the present deadlock. To us as a tourist country it could also have certain obvious advantages. But in considering independence we must not ignore practical considerations. Firstly, it is not easy to protect the sovereignty and independence of a small country which has not sufficient strength to defend itself on our long and difficult frontiers bordering so many countries. Secondly, we must have the goodwill of all our neighbours. Can we find powerful guarantors among them to pull together always in assuring us freedom from aggression? I would like to remind you that from August 15 to October 22, 1947, our State was independent and the result was that our weakness, was exploited by the neighbour with whom we had a valid Standstill Agreement. The State was invaded. What is the guarantee that in future too we may not be victims of a similar aggression? I have now put the pros and cons of the three alternatives before you. It should not be difficult for men of discrimination and patriotism gathered in this Assembly to weigh all these in the scale of our national good and pronounce where the true well-being of the country lies in future".

Late in 1949, Sheikh Abdullah went to the United States for a second time. Americans who wanted to make Kashmir a military base against Russia, tried to win over the Sheikh and sell to him the idea of independent Kashmir. They used the good offices of Mr. Babler, the delegate of Marshall Tito's Yugoslavia in the Security Council.

In January 1952 Sheikh Abdullah went to Paris where the idea of an independent Kashmir under UN auspices was suggested to him by quite a number of delegates. A noticeable change surfaced on his return to Kashmir.

Addressing the Constituent Assembly on March 23, 1952, he said:

"Suppose for sake of argument that the people do not ratify the accession, the position that would follow will be that as a matter of course. Kashmir becomes a part of Pakistan. No, that would not happen. That cannot happen legally and constitutionally. What would happen in such an eventuality would be that the State would regain the status which it enjoyed immediately preceding the accession. Let us be clear about it".

This type of loud thinking on his part added to the visit in June 1953, of Mr. Loy Hederson, finally led the Sheikh to the prison on August 8, 1953.

Jinnah Opposed Independence

Pandit Prem Nath Bazaz, in his book "Struggle for Freedom in Kashmir" has made an astounding revelation that the idea of an independent Kashmir did not find favour with Mr. Jinnah.

On February 28, 1948, Choudhari Ghulam Abbas, the well-known leader of the Jammu Muslims, who was a political detenu in Jammu, was set free and sent to Pakistan, Bazaz says:

> "It is believed that Sheikh Abdullah set Abbas at liberty on the assurance that the later would persuade Jinnah to accept a proposal for an independent Kashmir. Abbas is reported to have attempted to fulfill the promise but he failed in his mission".(page 626).

Amanullah Khan

The leader of the most powerful of the militant outfits in Kashmir (JKLF). Mr. Amanullah Khan, has always supported the idea of an independent Kashmir. Early in 1991, he had gloated in an interview to the Urdu Daily "Jung" of Pakistan, that aided by the Pak-Intelligence Agency, the JKLF had flagged of terrorist activity in Kashmir three years earlier by exploding three bombs in Srinagar. Towards the end of 1991, the scenario had, on account of Pakistan switching its patronage, become so substantially different that Mr. Amanullah Khan said newsmen in Islamabad:

"The current struggle in Kashmir will be turned into a civil war if the Pro-Pakistan 'Hizb-ul-Mujahidin' does not stop attacking on my party men", Mr. Khan told the news conference on December 11, 1991, that 20 of his men had been slain by the Hizb.

Nawaz Sharif

Only the other day, according to B.B.C., the Prime Minister of Pakistan, Mr. Nawaz Sharif, has said that if Kashmiris were given the right of self-determination, they could decide their future by either joining India or Pakistan or by remaining independent.

This statement, according to Pak newspaper "The Muslim" has opened a Pandora's box.

Political Aspects of Independent Kashmir

Late Pandit Prem Nath Bazaz, the well-known Kashmir patriot has examined various aspects of the demand for independence in his book, "Struggle for Freedom" and concluded:

> "It is evident that situated as it is Kashmir cannot defend its frontiers against foreign aggression. Paper guarantees of the UN will be meaningless. There is no international force composed of the members of all the Big Powers in existence at present. So if the UN agrees to protect the independence of State Britain or America. Shall have to station her armies in the Valley. That will be sufficient cause for the Communists from north and east to swoop down upon the country. The example of Korea is there, Therefore it will be no independence:

it will be a direct road to an annihilation of our beautiful, beloved and ancient land".

Financial Aspect

I would like to add a few words regarding the financial aspect of an independent Kashmir. As at now the net revenue of the State is to the tune of Rs.275 crores while the salary bill alone is as high as 350 crores. With the high population-Government employees ratio, probably the highest in India, the State cannot cover even the pay bill of the employees from its own resources. Besides, the 100 percent aid received from the Union Government as Plan aid, the state gets 90 percent aid towards non-plan expenditure. Just one more figure tells a lot By the end of the year the deficit which was estimated at 600 crores and by present projection it is expected to rise to Rs.700 crores. Can such State be viable politically and financially?

Misled Kashmiri Youth

Lastly a word to the misled Kashmiri youth who have taken up arms to attain "AZADI" (Independence from Indian domination). Obviously, Pakistan having failed to grab Kashmir by force by making three direct attacks, has successfully lured the way-a-ward Kashmiri youth by dangling before them the carrot of "AZADI". In doing so, Pakistan aims to kill two birds with one stone. Firstly, to give the impression to the world that it is not they who are creating the trouble but it is an internal upsurge to attain freedom from India's dominance. Secondly, to grab Kashmir and treat it in the same manner as they have done with the so called Azad Kashmir.

Does Pakistan want to grant the same type of Independence as given to "Azad Kashmir Government" where it has dismissed as many as ten Prime Ministers during the last four decades?

Courtesy: Kashmir Times, Feb. 27, 1992.

KASHMIR THE THIRD OPTION

Satish Kumar

How is it that the Governments of both India and Pakistan have been pursuing policies towards each other which are contrary to those dictated by the interests of the people, despite the fact that both India and Pakistan are democracies? This was the question put to the President of Pakistan by one of the participants in the recently held non-official dialogue in Islamabad, when the Indian delegation called on the President. What do you mean, said the President. The Indian delegates elaborated to say that while interests of the two peoples required peace and cooperation, if not friendship, the governments have persisted with policies of hostility and mutual bashing. Why? The President had no cogent answer, nor was one expected. But the question reflected the spirit which animated the dialogue.

It is not without reason that the last one year has witnessed a series of parallel processes in which distinguished citizens of the two countries have met, and have decided to go on meeting, to probe each other's minds in a bid to bridge the gap in the positions of the two countries on major issues of conflict. These distinguished citizens, some of whom have held important official positions in the past, are driven by the realisation that in the fast-changing world, India and Pakistan cannot afford to stay in a hostile relationship. Their under-development, to which their mutual hostility has contributed a great deal, is not warranted by their size, civilisational background, strategic location, human and material potential, and their respective sense of destiny.

Positions

The participants devoted a good deal of time to discussing the Kashmir question. The official positions of the two sides are well known. Ac-

cording to Pakistan, Kashmir is the topmost item on the agenda. It represents the unfinished business of the partition. Unless this dispute is resolved, there can be no progress on other issues. It is a territorial dispute. What is happening in the Valley since 1989 is a revolt of the people against the "illegitimate" rule of India.

The Indian official position is quite the contrary. The Kashmir issue is not a cause but a symptom of the Indo-Pak conflict. The question was settled in 1947, and later by the Constituent Assembly of Jammu and Kashmir in favour of India. Pakistan is in "illegal" occupation of "occupied Kashmir". If the bilateral environment is improved first by resolving other issues, the Kashmir question will fall in its place. More than a territorial dispute, the Kashmir question represents a conflict of values. The "terrorism" in the Valley since 1989 has been aided and abetted by Pakistan.

Gap

The two positions are so much apart, and continue to be so for years, that it would seem impossible to bridge the gap. Both governments are prisoners of old mindsets, determined by their political constituencies and rigidities of bureaucratic thinking. And yet the gap in the two positions has to be bridged. Pakistan does not feel called upon to change its position because it thinks that the "ground reality" is in his favour. The "revolt of the people", according to Pakistan, is a good enough reason for the world to sit up and decide in favour of "self-determination".

A former army chief, very influential in Pakistani politics, analysed for me in great detail the developments in the region which have qualitatively changed the attitude of the people. The Iranian revolution influenced the Kashmiri people, a considerable number of whom are Shia. The success of Iranian revolution gave confidence to the Kashmiris that if Iranians can overthrow the Shah, why can't the Kashmiris overthrow the Indian and Pakistani hegemony. The Afghan crisis also helped the Kashmiris. Many well-armed Afghan Mujahidins have been available for the "Kashmir cause", and will be more so after the Afghan crisis is settled. Recent developments in Central Asia have serious implications for Kashmir. Tajikistan has already claimed that Kashmir is a part of Central Asia.

In Pakistan, the argument in favour of "self-determination" has been taken to its logical, even if embarrassing end. It was not merely the Prime

Minister who talked of the "third option", although he had to withdraw his offer on careful thought. Some sections of political opinion, and some writers and commentators have started talking to that. But such elements are in sharp contrast to the government's action in preventing JKLF from violating the line of control both in February and March.

In India, the mainstream opinion considers the demand for self-determination as absurd for two reasons. First, the legal basis of Kashmir's accession to India in 1947 is unquestionable. Second, self-determination taken to its logical end will upset the applecart in the whole of the Pakistan and India, in addition to Kashmir. The experience of the former Soviet Union and Yugoslavia is invoked in support of this argument. India considers the unrest in the Valley as an "internal matter", and is confident of tackling it as soon as Pakistan withdraws its support to the terrorists. India's confidence also stress from the fact that it can contain Pakistan's "mischief potential" through superior military strength, if driven to the wall. India derives hope from the favourable international environment because the United States, Russia, China and other major powers prefer a solution of the Kashmir problem through bilateral peaceful means rather then through use of force.

While some of these arrangements were openly exchanged by the two sides at the non-official dialogue, others were at the back of the minds of respective protagonists. The gap between the two positions was bridged only to this extent that Indian participants agreed that yes, Kashmir was an unresolved issue and should be discussed. Pakistani participants did not reject the view that Kashmir issue should be resolved through negotiations and not through use of force, and that other issues should be discussed by the two governments along with Kashmir simultaneously. But the big challenge that lies ahead is to agree on the parameters within which the Kashmir question should be discussed. While some parameters were suggested, an agreement on them is far away.

Question

The next important question that was discussed at length was that of nuclear weapons. The discussion took place in the context of the global and regional security situation, and respective threat perceptions. The extent to which the views of two sides on this question were convergent could not be imagined, if one remembers merely the official positions which are glar-

ingly contradictory and hostile. The senior generals (retired) who put across the positions of the two sides were speaking nearly the same language. Both made the point that if the widely prevalent perception was that both countries had acquired nuclear weapon capability, let that be so, however lamentable the fact was. The Indian side agreed with the Pakistani view that the real issue no longer was the creation of a nuclear weapons "free" zone. Efforts of the two countries should be directed to the creation of a nuclear weapons "safe" zone.

Voices

Quite a few eloquent voices were raised on both sides deploring any attempt to justify the acquisition of nuclear weapons by either country. But the thrust of the discussion was towards taking the next step in confidence building, by concluding an agreement on non-first use of nuclear weapons. Suggestions were also made with regard to cooperation between the two countries in peaceful uses of atomic energy, as also taking a joint stand against the discriminatory global nuclear regime.

The third important issue discussed was that of trade. Although the time left for this question was short, the discussion nevertheless was instructive. The most important point that emerged was that Pakistani industrialists and traders were no longer allergic to open trade with India. Businessmen on both sides realized that in the changed global environment, it was imperative for both countries to cooperate and interact on the basis of comparative advantage. Pakistan's Finance Minister, however, while conceding this urge of the business community, emphasized the need to improve the political context. A number of specific suggestions were made on how to expedite the process of economic interaction.

Among other things discussed, considerable importance was given to the need to implement existing agreements like that on the Siachin Glacier. Attention was also drawn to the importance of SAARC, particularly when the rest of the world was safeguarding its interests through new trading blocks. But the biggest challenge that confronted these men of peace and goodwill was how to ensure that these aspirations and interests of the people get translated into policies of the government.

Courtesy: The Hindustan Times, May 6, 1992.

THIRD OPTION ON KASHMIR ISLAMABAD'S CONFUSION

Aabha Dixit

Amanullah Khan's abortive attempt to cross the Line of Actual Control (LAC) brought into limelight the seamy side of Islamabad's Kashmir strategy. While the JKLF's decision to raise the ante was guided more by political considerations of emerging stronger in a hostile Pakistani atmosphere, Nawaz Sharif's recent hint to the B.B.C. of changing Islamabad's longstanding position on Kashmir by accepting, in principle, the option for independence was on the other hand, an audacious and opportunistic attempt to steal the show from the other members of the troika and at the same time neutralize Amanullah's rapidly rising popularity graph.

Sharif in his interview to the B.B.C. had said that "the right of self-determination meant to let the Kashmiris decide as to what they wanted. If the right of self-determination was exercised by the Kashmiris, they would have the freedom to decide whether they wanted to join Pakistan, they wanted to be independent or they wanted to join India". It is ironic that the sudden change of heart for the Pakistan Prime Minister came so soon after declaring at the Solidarity Day organised a few days before the JKLF march that he "would stand at the forefront of the liberation of Kashmir from Indian hands". Nawaz Sharif's dramatic announcement was quickly countered by President Ghulam Ishaq Khan who declared that there was no change in Pakistan's policy on Kashmir. Sharif's own Minister of State for Foreign Affairs, Siddique Kanju, further amplified the President's line by ruling out altogether an independent Kashmir and a cautious and unsure Foreign Office at first refused comment upon Sharif's startling announcement.

Gambit

It is obvious that Sharif's third option possibility was designed as a political gambit to gain the upper hand vis-a-vis the President and the increasingly assertive Army chief, General Asif Nawaz Junijo. Sharif battling through a series of corruption scandals during the past year, has been in the President's long shadow and the Kashmir opening would have allowed him to gain an upper hand on the wily President. In his struggle with the other member of the troika, who had strengthened his position within the Army with the forced retirement of a Sharif favourite, Lt. Gen. Hamid Gul, the proposal was clearly an attempt to draw a distinction between Asif Nawaz's approach of using force, if necessary, to prevent an upsetting of the status quo between India and Pakistan and the projection of his own sympathetic stand that would have brought him grounds well support among the emotionally charged people, specially the Kashmiris.

If Sharif was using the third option strategy to get ahead of the rest of the pack, at the same time he was attempting to use if as a mirage to square the advantage that Amanullah Khan may have gained among the Kashmiri populace as a result of the march. By showing flexibility, that could be interpreted by the Kashmiris, as genuine concern for their cause, Sharif has attempted to outflank the independence movement led by the JKLF that is rapidly gaining ground in POK. All through its existence since 1964, when the organization was founded, the JKLF has been abhorred by the Establishment for espo-using a cause that runs diametrically counter to Islamabad's stand on Jammu and Kashmir. What made the ruling elite tolerate Amanullah and his organisation was their common antipathy for India. To that extent, the JKLF provided an international outlet for its propaganda machine.

Objective

Another unstated objective of the Sharif decision to go public on the possibility of Islamabad changing its stand was an attempt to mollify the strong lobby in the UK that has argued for an independent Kashmir and which has been incensed over the Pakistan Army's determination to use force to stop the march. Lord Avebury, Gerald Kaufman and George Wheeler are among the prominent British Parliamentarians who have put forward the JKLF's case with the Establishment.

But all along, the Establishment had never really allowed the Front a free hand in the low intensity conflict operations and it set up rival militant organizations in the Valley. These Pakistan-sponsored militant organizations are also involved in the bitter and internecine struggle to crush and discredit the JKLF in the valley. Inside Pakistan, Amanullah has been a marked man and all the activities of the organisation are microscopically monitored. Despite the intense surveillance and frequent attempts to break the organisation, the JKLF has emerged as a force to reckon with in POK, leaving the Pakistan-sponsored fronts discredited in the eyes of the misguided Kashmiris. The ideological differences between Islamabad's real intentions for Kashmir and those of the JKLF have set up the collision course, which was precipitated by Amanullah's decision to force the pace by attempting to cross the LAC.

Predictably, Amanullah's decision caused a series of acerbic exchanges between the Establishment and right leaning political parties on the one hand and the JKLF on the other, which in turn has badly bruised Islamabad's case in Kashmir. The Prime Minister of "Azad Kashmir", Sardar Abdul Qayyum, known for his espousal of Islamabad's position, threatened to ban the JKLF and referred to its "terrorist and subversive activities" in POK. Qayyum charged the JKLF with "arson, lawlessness and destruction of state property". If the quisling POK Prime Minister publicly spelt out the Establishment's ire over Amanullah's decision, several behind the scenes attempts were made to pressurize and even discredit the JKLF. The ISI Chief, Maj. Gen. Asad Durrani, reportedly met Amanullah for over two hours but failed to persuade him to call off the march. The Minister for Kashmir Affairs, Sardar Mehtab Ali Khan, was in constant touch with the JKLF chief and threats of arresting the JKLF leadership were brandished. As the day of reckoning approached, a feverish campaign to discredit Amanullah was underway. He was accused of being an Indian agent, whose only objective was to sabotage the "liberation struggle".

On the other hand, the JKLF leadership, sensing their chance to upstage their opponents, responded to the Establishment's charge in an equally vitriolic manner. At a gathering in Karachi on February 11, five Kashmiri outfits which included the JKLF, the Jammu and Kashmir National Students Federation, JK Students Liberation Front and the JK People's National Party passed a resolution that vowed not to "accept slavery of Pakistani rulers and (The) Army". Shaukat Maqbool Butt, the son of Maqbool Butt, who was hanged in 1984, addressed the meeting and said that "the

Pakistani rulers have shown their hidden face which was not much different from the Indians. They are arresting Kashmiri people and torturing them in their struggle for independence".

Defiance

Even more unsettling for the Establishment was the defiance of the JKLF to approach the LAC which resulted in the Pakistan Army's hands being tainted by the blood of the people to whose cause they paid lip service. As an anti-Pakistan perception began gaining ground among the Kashmiri population, it signalled the end of an easy master-client relationship that Islamabad had with the older generation Kashmiri leaders like Sikander Hayat Khan and Sardar Abdul Qayyum. A well-armed, politically radicalised and youthful Kashmiri leadership in POK is clearly proving difficult to handle. Army reinforcements have been sent to POK and, according to the newspaper Nation, about 3,75,000 Pakistani troops were stationed along the LAC to prevent the crossing of the border by political agitators. But their real reason appears to be an attempt to squelch the growing support base of the JKLF inside POK.

Sharif's attempts to take advantage of the situation to corner the political limelight notwithstanding, his Tehran statement does betray the anxiety that has gripped the Establishment over its increasing inability to use the misguided hopes of Kashmiris to achieve their aims. The radicalisation of politics resulting from years of pursuing the covert route has seen a new kind of belligerence emerge among the Kashmiri militants, who like their Afghan counter-parts are heavily armed and not amenable to Islamabad's reasoning. The Sharif statement is in essence a last ditch attempt to regain control over the militant movement that is increasingly questioning the benefits of its links with Pakistan.

Implication

At the same time, another implication of Sharif's dramatic announcement is his readiness to resile from a fundamental position that Islamabad has always held — of selectively subscribing to the terms of the 1948 and 1949 UN Resolutions on a plebiscite in Kashmir. It has always argued that the UN resolutions never had a third option and the terms of the concept of self-determination for the Kashmiris which Islamabad was prepared to accept was of their choosing to join Pakistan. But Nawaz Sharif's decision to

expand the meaning of self-determination to include independence is in itself an acknowledgement of India's position that resolutions passed in an altogether different period of time cannot be the most appropriate conflict resolution mechanisms four decades later.

With an ascendant JKLF flexing its muscles within POK, an intensification of insurgent activity across the LAC in Jammu and Kashmir would be the only option to blow the flames away from their homes. The JKLF's second march that is scheduled to begin on March 30, would see Islamabad, which has emerged hurt, tainted and exposed from the first round, engage in strategies that would generate similar pressures upon India. Sharif's strategy to change his tack on Kashmir is at best deliberate, as it seeks to confuse the Kashmiri and its foreign supporters and regain the initiative for Islamabad.

Courtesy: The Hindustan Times, March 12, 1992.

KASHMIR: THE QUEST FOR INDEPENDENCE

Amrik Singh

Should Jammu and Kashmir have gone with India, Pakistan or been an independent state? This was a live issue even in 1947. If Maharaja Hari Singh did not opt to go with India or Pakistan, one reason might have been, as is generally believed, that he was indecisive. An equally important reason was that he as well as a large number of people in that state seriously entertained the notion that once the British leave, Kashmir should be independent.

Maharaja Hari Singh had himself entertained this notion. Sheikh Abdullah was a little more realistic insofar as he recognised that his first priority was to seek release from the iron control of the Maharaja and this particular aspect of independence could be taken up a little later. That is why it was after the Maharaja had been made to abdicate that the Sheikh started talking of an independent Kashmir. It is not possible to go into details in regard to how the idea was put forward tentatively, then projected seriously and ultimately led to the ousting of Sheikh Abdullah from power in 1953.

In Pakistan too this proposition did come up for discussion in 1947. In his detailed article in the Frontline of November 19, 1993, A.G. Noorani has given details as to the kind of discussions that were then held in the country in regard to Jammu and Kashmir becoming an independent state. In India this idea was regarded with horror and that is why Sheikh Abdullah was ousted from power. In Pakistan too it was regarded with equal horror but then, as far as Pakistan was concerned, there was no occasion for her attitude to be made public or formal.

That happened much later, more or less as a prelude to what has been happening currently. When the 1965 fighting did not lead to what was anticipated, the question arose: what next? It was in that background that the JKLF which had existed on paper for sometime was given closer attention than before and helped in a variety of ways. For about two decades, this particular outfit received extensive patronage from Pakistan.

During this period, fundamentalism was growing apace in Kashmir. Apart from Jagmohan's book there is enough documentation available to provide the requisite evidence and it should not be necessary to repeat it here. The turning-point, however, came when Sheikh Abdullah died in 1983. As long as he was around, he knew how to handle his people and he did it superbly. In terms of political skills, he was not only unmatched, he was simply outstanding. The way he dominated that State for almost five decades bespeaks political sophistication of the highest order.

Things started changing after his death. And within five years they have changed to this extent that while, at one point, the bulk of the people were for India, now they have become anti-India. Some people would question the statement whether people were genuinely pro-India. As long as Sheikh Abdullah was around, one can presume that was so. Once he had gone, the situation began to change.

His son and successor did not have that kind of competence and political astuteness which would have prevented the people from turning hostile to India. Whatever he could not accomplish was accomplished by Indira Gandhi in the manner in which she handled that difficult State. Between the two of them, Farooq Abdullah and Indira Gandhi, they more or less made sure that the people got alienated from India. The situation during the last few years has brought this fact in the open and given it that militant edge which has led to so much killing and bloodshed.

II

Even though the JKLF was a politically friendly group, Pakistan did not wish to take any chances. Therefore, Pakistan patronised and promoted the Hizbul Mujahidin and a large number of other splinter groups also. Numerically speaking, these are about a hundred but in actual effect the two prominent groups are the JKLF and the Hizbul Mujahidin. Other groups are also occasionally used, and armed and manipulated as and when found con-

venient. Broadly speaking, the people of Kashmir are divided into these two main ideologies. The JKLF does not wish to go either with India or with Pakistan but stands for independence. But the Hizbul Mujahidin group want to go with Pakistan.

To start with, both groups were helped by Pakistan but not in a lavish manner. Till Jagmohan appeared on the scene, the state was in the process of withering away. Through his exertion, and organising ability, he was able to stem the tide of militancy in a manner of speaking. But then, guided by certain ideological predilections, he started stumbling. In any case, hostility to him as a person was as much a factor as some of the mistakes that he made. Nonetheless, looking back, it is possible to see that it was on the foundation laid by him that further consolidation could take place. Figures in regard to the people crossing the border, entry of arms into Jammu and Kashmir, arrests of militants and all such details point to one thing. By 1991 the tide had begun to turn.

All this while, the two scenarios, independence of the Valley and accession to Pakistan, were the two items on the agenda. Continued accession to India was ruled out. In fact the tomb of Sheikh Abdullah had to be guarded against desecration. He was the man who was seen to have been the architect of Kashmir's accession to India. In the era that began in 1990, this single act was regarded as an act of supreme folly, even betrayal. No wonder he was abused, derided, scandalized and what not. It was clear to most people that but for the kind of lead given by Sheikh Abdullah, Jammu and Kashmir would not have acceded to India. It may be recalled that one crucial reason why the Muslims of Kashmir acceded to India in October 1947, was the fact that the National Conference was most definitely for such a step.

Within the first few weeks of the partition on August 15, 1947, several leading political leaders of the National Conference, including Mohammad Sadiq, had gone to Lahore and explored the possibility of some kind of an arrangement with Pakistan whereby Jammu and Kashmir could be independent. That proposition was not agreed to. When they returned empty-handed from Lahore, it was clear to the National Conference that the dream of independence could not be realised.

What to do in that situation? Everyone was looking for an answer. With the tribal attack on Kashmir, master-minded as it was by the Govern-

ment of Pakistan,the situation under went a qualitative change. It was in that context that Jammu and Kashmir acceded to India with the full and unqualified support of Sheikh Abdullah.

There is also an additional reason which must never be lost sight of. Sheikh Abdullah's perception of things before 1947, was that while power was exercised in the State by the ruler, his chief instruments were either Punjabi Muslims or Punjabi Hindus. A few of the local Dogras were also a part of this step-up but mostly at the junior level. The Kashmiri Muslims were hardly anywhere in the picture. Proud as he was of his heritage and his identity, this bothered him a great deal.

Being governed by Punjabi Muslims was something that the Sheikh could not accept. It would have amounted to replacing one set of rulers with another. What he wanted as that the Kashmiris should be able to control their own destiny and rule their own State. This was his dream. But it was a dream which could not be fulfilled for reasons beyond his control.

Had Pakistan agreed to Kashmir remaining independent, the problem would have been greatly simplified. To say that it would have been solved would be to claim too much. Once access to Kashmir had been granted to India by a last minute change in the Boundary Award given by Radcliffe more or less through the intervention of Lord Mountbatten, India would not have accepted this decision unquestioningly. This is not to suggest that India would have mounted a military campaign as Pakistan did: this point need not be stretched too far, however. Furthermore, the Maharaja too might have displayed his proverbial indecision even in respect of opting to be independent. What emerges from all these details is that independence for Kashmir was never far from the agenda all this time. In a sense, Sheikh Abdullah was for it and so were his colleagues though he was not particularly decisive. And then when the tribal attack came, a decision had to be made and was made. And that was to accede to India.

III

One other thing needs to be mentioned at this stage. When Sheikh Abdullah thought of independence for his state, he did not think particularly either of Jammu or of Ladakh or the other areas which had a distinct ethnic identity of their own. He was aware of his own identity as a Kashmiri. Indeed he was so committed to it that he thought of the future of Kashmir

only in terms of the Valley and not of the various other regions, including Gilgit and so on. They too had an identity and a history of their own. How the State came to be constituted in a particular way was partly a matter of history and partly of expediency. This unique distinction belonged only to the Valley: Incidentally the most populous region of the State. Since he hailed from the Valley, he looked at things in terms of his own background and commitments and did not think very much beyond it.

The issue, however, got forced after the tribal attack and the fighting that took place in the year or more that followed. When the matter was agitated before the UN and ultimately a cease-fire was agreed to, Sheikh Abdullah saw to it that the cease-fire was enforced at a point of time when no part of the Valley remained under Pakistan's control and it was only the Punjabi-speaking parts of Kashmir which were safe with Pakistan. Once again there is ample evidence available to prove this point. What needs to be both underlined and understood is the fact that the Sheikh was acutely aware of the ethnic dimension of the problem.

Not many people realize that the ethnic dimension of the Kashmir problem is as important as the religious dimension. In terms of religion, the Muslims are in a majority both in Pakistan and Kashmir. But in Pakistan, the bulk of them are Punjabi and are ethnically and culturally different from the Muslims of Kashmir. It is not possible to elaborate this point except to refer to the manner in which the cease-fire line had been agreed to.

The Sheikh more or less made it sure that even if the cease-fire line was not favourable in military terms, it was favourable in ethnic terms.

To put no more gloss on it, the Sheikh was a Kashmiri patriot to the fingertips on his being. This comes through convincingly not only from his autobiography which is now available in an abridged form in English but also from a dispassionate study of his political career. Whatever else he might be faulted with, he cannot be blamed for being untrue to the soil from which he came.

In fact one can further say that Sheikh Abdullah could have been a key figure on the Indian political landscape, more particularly in the second half of his career, had he not chosen to stand by his commitment to the Valley. There is something ironical therefore when, during the last few years, he has been projected by some people as anti-patriotic. To a substantial ex-

tent, this is a comment on how things have become topsyturvy in Kashmir.

IV

To come back to the starting point: can Kashmir become independent? For the last few years, this is precisely what has been projected insistently. But one thing has become clear during this phase of militancy. India is determined to stay in Jammu and Kashmir and is prepared to pay any price. After an initial setback of more than a year or so, India has recovered her position. Today she holds the land though the people are against her. Of this there should be no doubt.

In order to hold on the land large-scale security operations have been mounted. By and large those have been successful and militancy has been contained. Some people claim that the security forces have got the upper hand. Whether this is so or not, this much is definite that on the whole the security forces have given evidence of considerable staying power and remarkable capacity to go on the offensive, as and when required.

But at what cost? The people are alienated. what is worse, large-scale human right s violations have been committed and continue to be committed. In fact since the beginning of 1993 these violations have become decidedly counter-productive. By the end of 1992, it had become clear to most people that Indian forces could not be thrown out. To some extent, therefore, some people had begun to feel that continued militancy was not likely to succeed.

What has kept militancy going, however, is the manner in which excesses continue to be committed. Each one of them feeds the feelings of anger and helplessness which the common people in the Valley have.

Is that the way to win friends? Can India win friends by being ruthless and vindictive? The BSF in particular has been guilty of all kinds of violations of human rights though the army mercifully has conducted itself as a disciplined force. To put it somewhat strongly, what has given a long lease of life to militancy has been the manner in which the security forces have, on innumerable occasions, hit out at random, committed arson and murder when what was called for was a restrained and effective use of force.

Another factor which without question weakened the functioning of the State was its inability to administer the State in a civilized and orderly way. Rules continue to be violated all the time and no one questions this fact. Even such an obvious and simple thing as the existence of a grievance redressal machinery at any level does not exist.

Grievances, arise for two reasons. One, because the state as an organisation which ensures order and justice, does not exist. And secondly, because the security forces commit excesses all the time. Therefore, crises to blow up every now and then and add to tension and alienation.

The administration (largely controlled by Delhi) failed to see through the game being played in 1992-93. In certain cases, the Administration played into the hands of the ISI. For instance, at one stage a large number of militants connected with the JKLF were caught. The general impression was that the State administration was being efficient whereas the fact of the matter was that the Hizbul Mujahidin group was feeding the intelligence sources with information about the activities of the JKLF. The militants connected with this group were being arrested one by one; and that was exactly the game. The ISI wanted the JKLF to be decimated and that is precisely what happened. Nonetheless, the JKLF has continued to be popular.

Hardly any attention was paid to the toning up of the administration. Some cases of corruption which were unearthed in 1993 had actually occurred a couple of years earlier. But such was the lack of vigilance that nobody took notice of what was happening. There is a good deal more to be said in this behalf but to do so would not help the basic political situation being defined more clearly.

That situation may be defined briefly in this way. It has become clear to militants as also to everyone else that it is necessary to put an end to the rule of the gun. Indiscriminate killing has led to those inevitable evils which are an inseparable part of insurrection anywhere. Anti-social elements penetrate the patriotic outfits and begin to play their nefarious games. A kind of revulsion therefore set in against unending militancy. That was somewhere in 1993.

People wanted change in the situation but they did not know how to go about it. Over the years, political leadership had virtually got extinguished.

Meanwhile, a new kind of leadership had arisen. The Indian government was, however, not prepared to come to terms with this new leadership, nor did it know how to identify it. It was still banking upon the old leadership but that was total misreading of the situation.

One thing should be understood clearly. The preceding half decade has been a period of profound turmoil in the Valley. Old norms broke down and so did old values. At one time the people from Kashmir were looked upon as passive, lacking in initiative and guts and prepared to put up with endless privation. But when the storm broke, it swept everything aside. This was, however, possible only with the rise of a new, militant leadership and the Valley did throw up that kind of leadership.

Not only hundreds but thousands of people laid down their lives. A substantial number of them have given evidence of resourcefulness, qualities of leadership, the capacity to plan for all kinds of contingencies and to take risks. Those who do not know need to be told that a whole new mythology of political struggle and sacrifice has been born in that Valley.

Scores of new heroes have emerged. Some of them died fighting, others are still fighting and there are legends in circulation about each of them. In brief, the entire fabric of the Muslim society in the Valley has been torn asunder. (With the Kashmir, Pandits having had to leave, nothing else was possible).

If anyone from the old leadership has survived, it would be more or less a miracle.

To put it no more strongly, unless the full import of this new movement is understood, nobody would be in a position to work out a new future for the Valley. Things would never again be what they were. But what precisely should be the contours of the new set-up is something that is not clear to anyone at the policy-making level in India. Most of them were still talking in terms of old perceptions.

V

While it is difficult to say with any degree of precision as to which group is stronger and more representative of public opinion, this much is more or less definite: the general sentiment is in favour of independence.

Those who have a fundamentalist outlook or are acting at the behest of the ISI certainly do not belong to this school of thought. To put it another way, Hizbul is a strong force partly because it is well organised and largely because it is very well armed. But in terms of public acceptability, the JKLF is distinctly ahead of all other groups.

The JKLF, however, will not be able to carry the day in the current situation. People are afraid of the gun. Therefore, they do not speak out. Nor is there an occasion for them to do so. The political process has come to a stop. Feeble attempts have been made to restart the political process but given the complexity of the situation, no initiative taken so far has worked nor is it likely to work.

India is caught in a cleft. The political process can work provided India is prepared to accommodate the Kashmiri sentiment. But there are two hurdles to be overcome. One is the devitalisation of the Congress party and its consequent emasculation as an agent of change. The other is the aggressive posture of the BJP which is not at all prepared to compromise with the sentiment in Kashmir. Were the BJP to have its way, war with Pakistan would become almost inevitable and the issue, more likely than not, would be the future of Kashmir.

As to Pakistan, each political party feels so strongly about this issue that no one would have the courage even to bring down the temperature. In other words, the domestic situation of Pakistan is as much of a factor in regard to the resolution of the Kashmir problem as is the domestic situation in India.

Meanwhile, what is happening to the people of Kashmir? As anyone can see, they are suffering. Equally tragic, they are likely to continue to suffer. One opinion heard quite often in Kashmir is that Pakistan would fight India to the last Kashmiri. The point of this remark is that as far as Pakistan is concerned, she would and she can keep the cauldron boiling for as long as she wishes to. As far as India is concerned, while she would be prepared to reach a settlement, she would meanwhile hold on to Kashmir. In this process, it is the people of Kashmir who are suffering and there appears to be no end to their suffering.

If the people of Kashmir want to be independent, as they undoubtedly wish to and as they are entitled to, there is one prerequisite for their

independence. That is that both India and Pakistan, and possibly the UN also, must guarantee the fact that neither India nor Pakistan would subvert the independence of Kashmir.

Would both these countries accept such an arrangement? Divisions between the two are so deep-rooted that it would require statesmanship of the highest order in both countries for such a thing to come to pass. When in 1972 it was proposed to Bhutto that the cease-fire line might became the permanent boundary between the two countries, he did not dispute the cogency or the rationality of the proposal but he took the position that he could sell it to his country in that situation after the division of Pakistan into two different countries.

Was he right in saying this? He was right but what he stated was tactical rather than truthful. As soon as he went back after the visit to Shimla, he started talking in a tone opposite to the one he had adopted in Shimla.

While this is a comment on the character of a populist and a politician, the truth of the matter is that Pakistan is much too emotionally involved in the future of Kashmir to sit back and watch Kashmir become independent. This is not to struggle that India is prepared to see Kashmir become independent either.

One can, however, visualize a situation when, after some years, India might adopt a relaxed attitude and agree to Kashmir becoming independent, more or less on the Bhutan model. But Pakistan is not at any stage likely to agree to any arrangement which falls short of total absorption into Pakistan. To say, therefore, that the people of Kashmir are destined to suffer, and suffer mercilessly for years to come, would not be a piece of exaggeration. Instead it would be a recognition of the painful reality that Kashmir is today.

Kashmir can be the Switzerland of Asia without question provided both these countries do not compete with each for the control of the Valley. Instead they should agree that Kashmir can be left to herself and it would not really matter. For such a devoutly wished for consummation to occur, both countries would have to be sure of themselves. Equally important, they would have to have a clear sense of the direction in which they wish to go. Do we see any such thing on the horizon?

Courtesy: Mainstream, November 20, 1993
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US AND "THIRD OPTION" IN KASHMIR

M. B. Naqvi

The remarks by the high American official Ms Robin Raphael, the head of the South Asian Bureau in the US State Department Spoken before South Asian journalists in Washington on Kashmir, have been published here almost verbatim. There was, for a brief while, some jubilation, among Pakistani commentators. But that has not survived the ampler text of her remarks and it would be hard for any Pakistani analyst to chuckle over what was initially seen as a discomfiture of the South Block.

What was seen in New Delhi as a tilt towards Islamabad is being dismissed here virtually out of hand. A few commentators were, like traditional British Tories, disdainful of the import of Ms. Rapheal's remarks and were inclined to see no more than bending the stick in the other direction for the sake of appearing to be totally even-handed. But most analysts are actually impressed by the amount of academic homework that American diplomacy does and if the State Department has now chosen to question so basic a premise of the Indian stand on Kashmir, the perespective in the State must be assumed to be much larger and the purpose more radical. How does Pakistan benefit from it is a question that was discussed yesterday among several observers here and few could see any tilt in Pakistan's direction.

A tilt in Pakistan's direction could only be inferred if there was an indication regarding the acceptance of the traditional Pakistani stance that Kashmir should have acceded to Pakistan. And this is supplemented by the argument of geographical contiguity. In this case, there is no American inclination in this direction. What is implied is the American readiness now to disregard the Indian stand regarding the de jure sovereignty of India over Kashmir. It is being thrown overboard to go back to the moment when British paramountcy over India's princely states lapsed and before they became parts of India or Pakistan. Moreover, Ms Rapheal has talked of the whole State of Jammu and Kashmir and not simply of Muslim-dominated Valley. All parts of it are now up for final disposal.

Nor does the State Department seem to want to handover the whole State to the heirs and successors of Maharaja Hari Singh. There is no such possibility. The Maharaja's rights are long defunct and dead, certainly in political fact. All that is left is the people of Kashmir who are divided. They certainly have no political focus or instrument to aspirate their sovereignty rights. Anyhow, on present showing, all the people of the State will have to be consulted that seems to be the legal import of Mr Rapheal's remarks.

It seems to be obvious to analysts here that the American initiative favours keeping the whole of the once-princely State undivided. This seems to point to a situation in which it can neither freely choose to join India nor Pakistan. It leads to some "third option". This would involve Pakistan ceding some territories — a proposition that has never crossed the mind of nay Pakistan Government. Nobody in office can easily countenance it. In theory, both India and Pakistan have never looked upon the so-called "third option" with any favour.

It is true that at one stage the former Prime Minister, Mian Nawaz Sharif had said to the B.B.C. in Tehran that Pakistan would under certain circumstances be prepared to consider the "third option". But that had occasioned storm in Islamabad and on his return, Nawaz Sharif had to explain away what he had said. Foremost in protesting was the present Chief Minister of Azad Kashmir, Sardar Abdul Qayyum Khan. He much changed in Islamabad and Muzafferabad?

The only indicator of some change in the stance might be the latest pronouncements of Sardar Abdul Qayyum in the Us recently. He did show a lot of flexibility, though it is hard to pin him down to any particular proposition.

Traditionally, the various Muslim League faction have have had the harden of lines on Kashmir while the PPP was thought to be more pragmatic and flexible. When Ms Benazir Bhutto, during her first premiership in 1988-89, tried to show some flexibility towards India on the occasion of Rajiv Gandhi's visit both Nawaz Sharif and Sardar Abdul Qayyum had ganged up against her and loudly shrieked about the betrayal of Kashmiris. Later, Benazir too had tried to pay back Nawaz Sharif in his own coin when the shoe was on the other foot. No one knows whether this pattern would not be repeated.

Courtesy: The Times of India, By Mainstream, November 6, 1993

Section - G

KASHMIR: ISLAMIC CONCERN?

Religion is becoming the bottom line of Foreign Policy in Islamic States
says *Ramindar Singh*

Pan-Islamic sentiment has always been a bonding factor between many Islamic nations. It now appears to be on its way to becoming a major determinant of their foreign policy. The latest and, for India, the most worrying manifestation of this sentiment, was the support voiced in Islamabad two days ago by the President of Iran, Mr. Akbar Rafsanjani, for the right of self-determination of the Muslim residents of Kashmir.

Mr. Rafsanjani is not the first leader of an Islamic country to express such sentiments, nor will he be the last, but if the line he adopted on Kashmir starts gaining general acceptance in the Islamic block — now spreading fitfully from South-East and Central Asia through the Arab countries to North Africa and the Mediterranean, then India could find Kashmir becoming the biggest stumbling block in its relations with Islamic countries.

What makes it doubly galling for New Delhi is that not only has Mr. Rafsanjani doubted and dismissed India's stand on Kashmir, but that he has made a ringing endorsement of Pakistan's stand to an applauding joint session of Pakistan's two houses of Parliament in Islamabad. Apart from what he said, it was the manner and the place where he said it that gives his pronouncement the indelible stamp of policy.

For that reason policy makers in New Delhi cannot but take serious note of Mr. Rafsanjani's remarks. Kashmir, he told his Pakistani hosts, was

not merely their problem, but an Islamic problem. Tehran by law gave priority to Islamic and neighbouring countries adding that "anything which harms Pakistan, generally speaking, harms Iran. We have a common destiny".

In saying this, Mr. Rafsenjani not only rejected Indian's stand that Pakistan had no locus standi on the Kashmir problem, but placed Iran solidly behind Pakistan in its fight to secure for its Muslims brethren in Kashmir the right to self-determination.

But Mr. Rafsanjani went even further. He declared that the fundamental premise of Iranian foreign policy was to "address the rights of Muslims wherever they are". If New Delhi regards Pakistan's concern for Muslims in Kashmir as an interference in its internal affairs, how is it going to respond to Iran's declaration that it could tomorrow question India about the treatment of Muslims in Utter Pradesh or Bihar or anywhere else in our country?

This is a doctrine which could sour India-Iran relations and, more dangerously, embarrass Indian Muslims who have no desire to look for trans-border sponsors or protectors.

We must not forget that from the same forum only days earlier the Pakistan National Assembly had passed a resolution calling upon the Indian Government to protect the Babri Masjid. If one extends the logic of the Iranian stand, then tomorrow they too could call for the protection of the Babri Masjid. After that what prevents the other Islamic countries from following suit?

It is difficult to escape the conclusion that there is either an agreed degree of collusion on Kashmir between Pakistan and Iran, or that Pakistan played its cards very cleverly, first in getting its National Assembly to pass the resolution on Babri Masjid and later in raising the Kashmir question at the Non-aligned conference in Jakarta.

These two steps appear to have been aimed at reminding other Islamic countries of the "plight" of Kashmiri Muslims and the "danger" to the Babri Masjid. If that was the objective then Mr. Rafsanjani's ringing endorsement makes Iran the first Islamic nation to convert to the Pakistani stand on Kashmir.

To an extent this signifies the success of Pakistan's search for an alternate sponsor to replace the United States with which its military and political relationship started cooling after the Soviet withdrawal from Afghanistan and the Gulf war.

The Soviet withdrawal from Kabul meant the United States no longer needed Pakistan as a surrogate to finance and supply the Mujahidin fighters, nor did it consider Pakistan a frontline state.

The Gulf war on the other hand, revived US paranoia about an Islamic bloc emerging which would replace the Soviet Union as the main challenge to the might and influence of the United States. And since Pakistan has proclaimed itself an Islamic Republic it gets lumped with its co-religionists in West Asia.

At the same time three subsequent developments have fuelled Pakistani and Islamic fears about a US-Russia-India-Israel axis developing to contain the Islamic block.

This theory was extensively propagated and publicized in Pakistan and reportedly in some other West Asia countries.

It is based on the expanding commercial and financial relations between the US and Russia, the increasing trade and military ties between the US India and India's action in establishing diplomatic relations with Israel.

The US suspension of military supplies to Pakistan, its pressure on Pakistan to abandon its nuclear weapons programme and the latest threat to declare Pakistan a terrorism supporting state are other factors which Pakistan writers say forced Pakistan to make common cause with the emerging Islamic bloc.

The outwardly expanding Islamic concept of loyalty and solidarity has at its core the family. Beyond that is the tribe or community and religion. These take precedence over the wider allegiance to nation and state.

This is best demonstrated by the popular Bedouin Arabic proverb: " Me and my brother against our cousin. Me, my brother and my cousin against the stranger". To that one may well add the line "Me and my co-religionist against the infidels".

Mr.Rafsanjani made it clear that the US was the biggest infidel state targeting Islamic countries like Iran and Pakistan.

India too is being cast in the role of an infidel state where Muslims are oppressed and mosques in danger. After this initial setback, India will have to lobby furiously and hard to counter this propaganda.

And the way things are going it should be prepared to work twice as hard to convince its Islamic friends that Kashmiri Muslims, whatever their grievance, are just a small percentage of India's 130 million Muslims who are happy to be in India.

Courtesy: Pioneer, September 9, 1992

WAXING OF THE CRESCENT
OIC Trains Its Guns On Kashmir

Girilal Jain

The external affairs ministry's response to the organisation of Islamic Conference's unqualified endorsement of Pakistan's stand on Jammu and Kashmir is understandable as a public stand. Only one sentence, which suggests that it feels entitled to membership of this forum of Muslim state, is exceptionable.

Apparently, some smart Alec in the ministry thought it was a useful additional argument to discredit the OIC. This does not speak too well of the manner in which the ministry handles even familiar issues. Indira Gandhi it may be recalled, sent Fakhurddin Ali Ahmad to attend a similar gathering at Rabat in 1969. He was rudely rebuffed, and quite rightly. The size of the Muslim minority does not make India a Muslim country and a Muslim state.

Not a Substitute

That apart, however, a public stance is for public consumption. As such, it fulfills a necessary function. But it is not a substitute for a carefully worked out policy formulation, especially when a new approach is called for by changed circumstances.

The OIC's stand that what is happening in Kashmir is a "Legitimate struggle for self-determination and not Pakistan-sponsored terrorism is doubtless a major gain for Islamabad in its propaganda war with this country. In immediate terms, it can influence the US decision on whether to declare Pakistan a terrorist state.

It is plain naivety for us to seek comfort in the belief that some Muslim governments either do not accept the OIC's now official view, or accept it with qualification. It is worse to stretch an isolated sentence or two from a private statement by a visiting Muslim minister and cite it as evidence of his government's reservations. In any case, it will not be easy for New Delhi to take advantage of the supposed "gap" between the public and private position of Muslim governments.

To appreciate the validity of this assessment, we have only to recognize the obvious. Whether we call it revivalism, or fundamentalism, or activism, Islamic resurgence is a fact of life throughout the Muslim world. No student of developments in Muslim countries denies it, not even those who hold that resurgent Islam constitutes no threat to the West.

While Pakistan's diplomatic skills, single-mindedness of purpose and perseverance cannot be disputed, Islamabad owes its present success as much to them as to the ascendancy of the Islamic sentiment in Muslim countries which has made it difficult for their governments to be seen to oppose Muslim "causes". Since the Ummah does not recognise the twin concepts of national sovereignty and non-interference in the internal affairs of countries, Kashmir is a Muslim "cause" for it.

The ascendancy of Islamic sentiment is not a sudden development. The drift in that direction has been obvious since the defeat of Egypt, Syria and Jordan at the hands of Israel in 1967 and the consequent eclipse of Arab nationalism, or Pan-Arabism, represented by President Nasser.

His own successor, President Sadat, made terms with the Muslim Brotherhood he had sought to destroy. President Mubarak has pursued a similar policy of accommodation towards the Brotherhood.

This movement gained momentum as a result of the Islamic revolution in Iran in 1979. Progress was stalled first by the eight year -long Iran Iraq war (1980-88) and then the Iraqi occupation of Kuwait and its aftermath (1990-91). But the demise of the Soviet Union more than made up for this loss of time.

Three other factors have contributed to the present upsurge of Islamic activism. First, freed from the burden of war with Iraq and the Iraqi military challenge, Iran has felt free to resume its role of exporting its ver-

sion of Islamic revolution; while the Iraqi military machine stands wrecked and economy crippled on account of continuing sanctions. Iran, with its oil revenues and easy access to western credits, has brought state-of-the-art weapon systems from the Soviet Union.

Secondly,the fundamentalist influence behind the military regime in Sudan has got consolidated with the result that the fundamentalists have acquired in Sudan staging posts from which they can seek to destabilize pro-western regimes such as President Mubarak's in Egypt, or regimes controlled by westernised intelligentsia as in Algeria and Tunisia.

Indoctrinated Muslims

Thirdly, thousands of non-Afghan Muslims who participated in the U.S. promoted Jihad in Afghanistan were thoroughly indoctrinated in Islamic ideology and trained in guerrilla warfare. They constitute the nucleus for anti-government activities in Egypt, Algeria and Jordan.

Islamic activism is profoundly and irrevocably anti-West. It is especially anti-U.S. not only because Washington has supported Israel since the latter came into existence in 1948 but also because America represents what many Muslims regard as the worst aspects of the "decadent western culture". But the west is too powerful to be taken on as Libya's bitter experience shows. Moreover, Iran needs credits and technology from western Europe to become the kind of economic power it wants to be.

Softer Targets

So softer targets have to be sought. They are available in plenty in West Asia. Most regimes are corrupt and inefficient. They have not delivered on their promises. Indeed, they could not have, even if they were less corrupt and inefficient. Populations have grown too fast and so have expectations. The spread of both "modern" and traditional education has further complicated the problem, the first because enough white collar jobs cannot possibly be created for them and the second because it produces a mind-set which is anti-regime.

President Sadat sought in vain to isolate the extremists with concessions to older members of the Brotherhood. They finally killed the "pharoah" and boasted about it. President Mubarak has made the government control-

led media available for propagation of Islam in an effort to outbid his detractors. In the process, he creates conditions in which fundamentalism prospers.

The point, however, needs to be underscored that while the intra-Muslim struggle is bitter and un-ending, it does not rule out the search for consensus on matters of common interest. Israel has been one area of convergence. But Israel has stood its ground, thanks as much to the steadfastness of its populace as to U.S. supports, with the result that most Arab leaders have come to favour peace with it at least as a medium-term arrangement.

Bosnia provides another area of convergence. But the Ummah cannot seize the initiative there. It has to content itself with putting as much pressure on the West as it can. It does not quite follow that the OIC has turned to Kashmir and Ayodhya in search of a soft target. But such a possibility cannot be dismissed out of hand. In any case, it cannot be seriously denied that India is a soft and a bungling state. How else can one explain the decision to restore to office-men who slept in their warm beds as Pakistan sent men and arms into the Kashmir Valley to promote a full-fledged insurrection in the winter of 1990?

Courtesy: Times of India, May 6, 1993.

KASHMIR IN NEW CONTEXT HIGHTENED US INTEREST IN PROMOTING A COMPROMISE

G. M. Telang

Neither Pakistan nor India can ignore the true implications of the UN Secretary General's statement on Kashmir. For, it is tantamount to an international verdict on the conflicting claims of the two countries. Mr. Boutros Buotros Ghali has categorically rejected unilateral UN intervention in the dispute on the basis of Old Security Council's resolutions as demanded by Pakistan. He has thereby demolished the 40-year-old Pakistani dogma about the exercise of the right of self-determination by the people of Kashmir to choose between accession to India and Pakistan. The consistent Indian contention that these resolutions were wholly irrelevant has been vindicated but New Delhi is hardly in a position to match the change in the complexion of the Kashmir dispute effected by Mr. Boutros Ghali with a measure of flexibility in its own stand.

Pakistanis may maintain that what the UN Secretary General has said is his personal view and what matters is the obligations contained in the Security Council resolutions. Such legalism will be sterile. The significance of Mr. Boutros Ghali's statement lies in the fact that it is essentially a reiteration of the view of the Kashmir issue already taken by each of the five permanent member-countries of the Security Council. They have explicitly favoured the Simla Agreement committing India and Pakistan to resolve the Kashmir dispute through bilateral talks. The Secretary-General has virtually put the UN's imprimatur on this approach. Negotiated settlement is the watchword of the new era of international politics. It inter alia signals a firm repudiation of the political-cum-religious fundamentalism on which Pakistan's claim to Kashmir has rested for so long.

The US has not stopped at switching over to a new policy on Indo-Pak issues. It has also sought to persuade Islamabad to opt for a negotiated settlement of the Kashmir issue instead of chanting the mantra of "self determination" for the Kashmiris. American diplomacy has simultaneously been at work to enlist full Pakistani co-operation in hastening a political settlement in Afghanistan as well as in promoting denuclearization of South Asia. Washington has apparently succeeded, to a large extent, in getting such co-operation in realising these two objectives. The same, however, cannot yet be said about the third aim, i.e. a settlement on Kashmir. The obvious reason is the central role traditionally played by this issue in Pakistan's domestic politics. But all the evidence suggests that Washington has not given up the attempt.

In fact, the cool confidence and skill with which the Pakistani Prime Minister, Mr. Nawaz Sharif, apparently in close collaboration with the army chief, General Asif Junijo has handled the domestic opposition to a departure from the old aggressive policy in Afghanistan are apt to have kept American hopes of eventual Pakistani support for a conciliatory policy on Kashmir, too, alive. The US-Pakistani co-ordination in the moves towards a resolution of the regional nuclear issue is calculated to be of potential use in cracking the tough Kashmir nut. The UN Secretary-General cannot but be interested in giving an impetus to this process. His forthright statement on Kashmir must be seen in the light of the headway being steadily made by the American bid to improve the climate for an all-round detente in South Asia.

Likewise, Mr. Nawaz Sharif's willingness to envisage a third option on Kashmir, i.e. an independent Kashmir, needs to be seen essentially as a link in the chain of important events of the past year relating to Indo-Pak issues. When he indicated in an interview to the B.B.C. last month that he had an open mind on the matter, there was tendency in this country to dismiss his remarks as a gimmick to blunt the JKLF's pro-independence agitation. What is more likely is that he was floating a trial balloon to assess Pakistani reactions. In the event, the idea of Kashmiri independence evoked much criticism in the Pakistan media and from extremist politicians of the Jammat-i-Islami variety. But nor was there anything like a national outcry against the notion as a betrayal of Pakistan. Notably, a few commentaries were even remarkably dispassionate and suggested a willingness to consider the merits of any alternative to Islamabad's hitherto rigid demand for nothing less than a plebiscite to decide whether Kashmiris want to remain within India or to join Pakistan. Whether such a frank discourse, however, limited

so far, on the sensitive issue is the result of a healthy impact on Pakistani opinion-makers of the growing unrest in the so-called Azad Kashmir, the sharp divisions among the Kashmiri militants armed by Pakistan and the increasing signs of misgivings in Western capitals over Pakistani-sponsored terrorism in the Kashmir valley is, however, a moot point.

The US administration will naturally keep a close watch on hints of new opinion trends among the Pakistani elite not least because it has an obvious interest in Mr. Nawaz Sharif successfully coping with possible internal resistance to shifts in time-hardened policies on regional issues. New Delhi's antennae will have to be sharper than ever if it is to assess accurately the changing situation especially insofar as it affects the Kashmir dispute. The other aspect of this issue which deserves to be followed equally closely is new influences which might be brought to bear on Washington's known keenness to nudge India and Pakistan towards a viable compromise on Kashmir. There is a risk in assuming that US support for the Simla Agreement is its last word on the subject. This is so especially because of the peculiar policy-making process in the US.

An important factor is the constant interaction between the regional specialists within the administration and Capitol Hill on one hand and the relevant scholars on the other. What the well-known American writer and expert on South Asian affair, Mr. Selig S. Harrison has been saying on the Kashmir question thus needs to be taken note of in this country. He has been a strong critic of Pakistani policies, especially the Pakistani-fomented terrorism in Kashmir. In a recent issue of "The Washington Post", Harrison has urged the Secretary of State, Mr. Baker "to undertake his first mission to New Delhi and Islamabad in an effort to head off a confrontation that could easily escalate to the nuclear level".

After noting the rival stakes involved, Harrison says: "As the first step toward a solution of the Kashmir dispute India would have to split the State, integrating most of Jammu and Ladakh with the Indian Union while giving special status to a new state in which the valley would be united with the sizable Muslim pockets in Jammu and Ladakh. India could then offer to give this new state far-reaching autonomy as part of a Trieste-type solution (in which Italy and Yugoslavia were involved) under which Pakistan would grant the same degree of autonomy to its sector of Kashmir ... Islamabad would terminate its support for insurgents in the valley. The present Kashmir ceasefire line would become an international border, with Kashmiris

free to travel back and forth without Indian and Pakistani visas".

This is by no means a novel formula. With minor variations, it has been put forward by concerned writers and media men in the past. Some parts of it are plainly impracticable. However, the fact that is being pressed by Seling S. Harrison, is noteworthy at a time when an acceleration of American efforts to bring India and Pakistan round to a compromise is on the cards. Indian policy makers must be fully prepared for Western pressure for going beyond a recognition of the Line of Control in Kashmir as an international border and for giving more concessions to Pakistan.

Courtesy: Indian Express, March 3, 1992.

THE KASHMIR QUESTION-HINT OF CHINESE INTEREST IN PROMOTING A SOLUTION

G. M. Telang

It is customary for Islamabad to claim, after high-level meetings between Pakistani leaders and foreign dignitaries, that the latter have given full support for its stand on Kashmir. In the last few months, both the President and Prime Minister of Pakistan have visited other countries, especially those in West Asia, and have been hosts to distinguished visitors. There has, therefore, been a flood of statements by the Pakistani leaders and commentaries in the Pakistani media over what has been jubilantly hailed as wholehearted endorsement by the foreigners of Pakistani policy on Kashmir and, of course, over condemnation by the latter of alleged "grave human rights violations" of Kashmiris by the Indian security forces, of India's "hegemonic" designs and series of other Indian crimes. Aren't the Pakistanis protesting too much? They seem to, going especially by Pakistani reports of Mr. Nawaz Sharif's talks during his visit to China — his second in less than two years — earlier this month.

Two instances merit mention in this connection. The pro-government Pakistan Times duly reported Mr. Sharif's summing up of what had transpired during his talks. After claiming complete Sino-Pakistani unanimity on all issues, the paper quoted Mr. Sharif as having said that a "comprehensive discussion was held on Kashmir". China desires, he is reported as having said, "a peaceful solution" of the Kashmir issue as it was in the interests of both India and Pakistan. The Prime Minister also said the Pakistan desired to establish good, friendly relations with India and both countries should concentrate on their development.

It is possible that the "comprehensive discussion" was meant only to reiterate the obvious desirability of a peaceful solution of the Kashmir issue? Or did the Chinese leaders also convey some things which were not exactly sweet music to Pakistani ears and which the Pakistani leaders as well as the media thought it prudent to black out or at least play down? Take, again, the Pakistan Times's own overall report on the entire visit to Beijing. Buried towards the end of the report is the highly significant statement attributed to the Chinese President, Mr. Yang has been quoted as having said that "China desired a political solution of the Kashmir dispute".

The report must be deemed to be accurate precisely because it appeared in the Pakistan Times which is not expected to publish or highlight anything-especially on a highly sensitive issue like Kashmir — which may embarrass the government. The reference to a Chinese desire for a "political solution" of the Kashmir dispute cannot but be a source of acute embarrassment to the government for two reasons. First, it contradicts whatever the Pakistani leaders have been saying all along about the whole-hearted Chinese support for its policy. More importantly, the very mention of a "political solution" of the Kashmir issue has been anathema to successive Pakistani regimes. It is very antithesis of the Pakistani religious-cum-political fundamentalism in relation to Kashmir. It is this dogma on which an attempt is being made to put a gloss by coupling ostensible acceptance of the Simla Agreement with insistence on the implementation of UN resolutions (though they have become invalid) and on the grant of the so-called right of self-determination to the Kashmiris.

To most Indians, Chinese preference for a "political solution" of the Kashmir issue will not come as a surprise. But for a brief period when Sino-Indian relations were at their nadir in the sixties and Chinese media seemed to mention Kashmiri self-determination approvingly, the Chinese have stood for a bilaterally negotiated solution of the problem. This is the same thing as a "political solution" or "reasonable settlement" or "compromise based on mutual accommodation and understanding" — the basis on which the Chinese have consistently asked India for an end to the Sino-Indian boundary conflict. Beijing's reasoning has been — and it is difficult to find fault with it — that the border dispute has already been the legacy of colonialism and can best be solved on a mutually acceptable basis.

The Kashmir dispute is basically of a similar nature. This is why Mr. Gorbachev had called upon New Delhi and Islamabad to hold a political

dialogue to resolve it. If now the Chinese, too, have asked Islamabad to think in terms of a similar approach, they are only being consistent and are advocating what realism demands. What is significant in this connection is the fact that the Chinese took good care to make its 1963 agreement with Pakistan relating to the boundary alignment in northernmost Kashmir provisional. The accord which ceded over 2,000 square miles of territory to China was made subject to the eventual Indo-Pakistan settlement on Kashmir. It provides that if, after an Indo-Pakistan settlement on Kashmir, India is recognised as the sovereign authority in relation to this territory, India will reopen negotiations with China on the alignment. The Sino-Pakistan accord which was made provisional at China's instance was nothing but a "political solution". So, it stands to reason that China should press Pakistan for a political solution of the Kashmir dispute itself.But Islamabad has fought shy of any such approach.

The main reason why Beijing is likely to be inclined to play a more active role in making South Asian disputes more amenable to negotiated solutions is the historic change in China exemplified by the consolidation of Mr. Deng Xioaping's grip on power. Under his leadership, China's preoccupation is wholly with frenetic modernization of its economy. He wants to hasten the emergence of China as an economic power in its own rights. He knows this is the prerequisite to its recognition by the rest of the world as a genuine world power. Single-minded pursuit of this overriding objective naturally makes it vital to try and remove the causes of serious regional conflicts in Asia. Two of these come to mind immediately. They are the Sino-Indian border dispute and Kashmir. As far as the border dispute is concerned, Beijing obviously assumes that India, sooner or later, will accept the inevitability of settling for the line of actual control in the international border. In that sense the border dispute has, in Chinese eyes, ceased to be a potential cause of serious conflict any longer.

The Chinese are fully aware that the same cannot be said of the Kashmir conflict. Its roots lie in the circumstances of Pakistan's birth as a sovereign state in 1947. Pakistan resorted to armed aggression to take over Kashmir in cynical breach of the accepted rules governing partition. It was then that the Hindu ruler of Kashmir was forced to sign the Instrument of Accession to India and invite Indian troops to defend Kashmir. Far more pertinent to the issue was the fact that the Sheikh Abdullah's National Conference which then enjoyed overwhelming support of the Kashmiri Muslims was fully behind the Indian riposte. After waging a second war in

1965, Pakistan again failed to annex the whole of Kashmir. And after the 1971 war which led to the separation of Pakistan's eastern wing, the Line of Control in Kashmir was further stabilized.

It is plain that it is this fact on which any mediator has to build if he is to succeed in promoting an Indo-Pakistan settlement. The US is already at it. If Beijing decides to reinforce the American effort, it will be a signal contribution to Asian peace.

Courtesy: Indian Express, October 23, 1992

ENUNCIATING BRITISH VIEWS ON KASHMIR

Nicholas Fenn

The British foreign minister, Mr. Douglas Hurd, paid an important visit to India last week. The Times of India choose to treat it in disparaging terms — apparently because of a misunderstanding. I am therefore grateful for the opportunity to set the record straight.

The mis-understanding seems to have arisen over Mr. Hurd's comments on Kashmir at the India International Centre on November 15, The editorials for November 18 and 19 says that he "differed only in the choice of words" from the comment attributed to Ms. Robin Raphel; that he "echoed his American cousins" and thereby cast in doubt all Acts of the British Parliament. Mr. Hurd was condemned as facile and cavalier.

With respect, the leader writers failed to listen to the silence. The most important point about Mr. Hurd's reply was what he did not say; he declined to endorse Ms. Robin Raphel's settlement. He deprecated the question which had been addressed to her about the Instrument of Accession: "neither the question or the answer is helpfull". (some of his audience may have thought he meant the question put to him from the floor but then he would have been describing his own answer as unhelpful which would be unusual in a minister).

In short, he deliberately declined to answer the question. Why? The United States has made clear that an informal exchange at the end of an unattributable briefing did not represent any change in US policy. A formal British answer to the same question — whatever its terms — would have served to revive the controversy without advancing the discussion.

Juridical Arguments

Mr. Hurd choose not to get engaged in juridical arguments about 40-50 years ago. He did not suggest that the Instrument of Accession was irrelevant or that the legal position should be ignored. He simply said that juridical arguments are not going to be decisive — and we all know that is true. In his judgment it would not have served the interests of the UK, of India or of peace for him to have answered that question — so he left it alone. "I do not believe that the answer lies in the juridical argument, but in political steps forward which I have tried to sketch but which it is agreed are for others to take". In the light of this view, it would have been quite wrong for a British minister to sit in judgment on particular issues which must be for the parties to resolve.

Instead his speech called for progress on three fronts. He called for a genuine dialogue between India and Pakistan as envisaged in the Simla Agreement. He called for an improvement of human rights in Kashmir while the government of India rightly pursues the search for credible interlocutors who might become partners in an internal political process. And he called for a clear end to external support for violence within Kashmir. He noted that only the two parties — India and Pakistan — could create the conditions suitable for a constructive dialogue. Finally, he suggested that outside friends had a legitimate interest in encouraging this process, emphasising that British had no blueprint and that our concern was to encourage and support.

That is the British policy on Kashmir enunciated by Mr. Douglas Hurd in Delhi last week. It does not deserve the opprobrium which it received in the editorials. I do not see how it can be regarded as facile or cavalier. All these matters were also discussed in private with Indian ministers. With Mr. Dinesh Singh Mr. Hurd exchanged the instruments of ratification of our new extradition treaty — symbol of our partnership in the defence of democracy against terrorist attack.

Then Mr. Hurd flew to Bombay to preside with Dr. Manmohan Singh over the inauguration of the Indo-British week on the Royal Yacht Britannia. The week was a triumph for India and British industrialists. Some have sought to divide up the list of contracts to see which party gains most. Surely a silly exercise: Industrialists sign contracts when they see a mutual interest. A contract for a British company to build a power station in India will

involve work for Indian construction companies and sub-contractors; and at the end of the day India will get the power. Moreover, such contracts increasingly involve investment; and at the end of the day India will get the power. Moreover, such contracts increasingly involve investment; and joint ventures to win contracts in third countries (like Bovis in Moscow).

Courtesy: The Times of India, November 24, 1993.

KAUFFMAN IN KASHMIR A MISSION TURNED SOUR

Sumer Kaul

Home Minister S. B. Chavan was chided by Mr. George Fernandes of the Janata Dal in the Lok Sabha the other day for not knowing the name of the British Labour Party's shadow foreign secretary. According to a newspaper report, Mr. Chavan referred to Gerald Kauffman as "Halfman or Kauffman, I don't know his name" and said he didn't care what the man's name was: he was only interested in what that man had said during his recent visit to Jammu and Kashmir.

Did Mr. Chavan really not know the name, or was he deliberately belittling the man for his utterances on Kashmir? The doubt arises because Mr. Kauffman did say things which New Delhi has every reason to mind. And to think that he was invited to make a "goodwill visit" to Kashmir by the government of India:

This brainwave of the Indian High Commission in London was patently based on the presumption that the Labour Party will win the next election in Britain and Mr. Kauffman will become the foreign secretary. With the election date still in the realm of tentative speculation and, Labour's lead in the opinion polls notwithstanding, with the likely outcome a question mark, the idea of winning over and influencing the "future" foreign secretary of Britain is laughable.

In any case the genius who initiated the move to invite Mr. Kauffman to visit Kashmir at this juncture had obviously not done his homework. If he had he would have known that Mr. Kauffman's constituency in Britain has a sizable number of Kashmiri Muslims (from both sides of the cease-fire line) as well as Pakistani emigrants and most of them are supporters or sympathizers of the Jammu and Kashmir Liberation Front which is demand-

ing independence for the State. In the event, Mr. Kauffman evidently considers it more prudent to please them than to refrain from displeasing the Government of India. And displease he did.

India's "occupation" of Kashmir, the Labour worthy said in Baramulla (north Kashmir) on August 10, is "controversial". The Simla Agreement as a framework for settling the dispute is only one of "the two elements" in the situation — the other being the nearly half a century old UN resolutions calling for a plebiscite. But there is a "third problem" not recognised in the UN resolution, Mr. Kauffman said — the Kashmiris themselves, and "many of them" had told him that they wanted independence.

Unwarranted Remarks

"This necessitates a new agenda, said the self-appointment judge. Indeed, he would "try to put it high on the international agenda": also, he visualized an active role for the Commonwealth in this matter and, meanwhile, exhorted the people of Kashmir to put pressure on the Government of India and Pakistan to work out a settlement. "I shall also put pressure on the two Governments", he said.

Clear from these remarks is not only a pro-Pakistan tilt but an implicit espousal of the JKLF's demand which needless to say, means secession from India. Equally conspicuous is the absence of any mention, let alone condemnation, of the rise of violent fundamentalism in this once truly secular valley and Pakistan's role in fanning this fire as well as in providing money, arms and training to the militants.

Even if Mr. Kauffman was the serving and not merely an aspiring British foreign secretary, such unwarranted and arrogant remarks deserved a prompt and condign response from South Block. But it took the Ministry of External Affairs all of three days to formulate a response — and a weather-beaten wishy-washy one at that. For more appropriate and telling was Mr. Chavan's mildly contemptuous, if fleeting, reference to Mr. Kauffman a day earlier in the Lok Sabha.

It is astonishing, however, that neither Mr. Fernandes, who got so worked up over Mr. Kauffman's name, nor anyone else in the Lok Sabha asked Mr. Chavan about the veracity of the words the Labour MP attributed to Prime Minister Narasimha Rao.

Talking in Baramulla about his idea of getting the Commonwealth to play a role in settling the Kashmir problem, Mr. Kauffman indicated that he had broached the subject with both Mr. Nawaz Sharif and Mr. Narasimha Rao. While according to Mr. Kauffman, the Pakistan Prime Minister agreed to the suggestion (naturally — anything to internationalize the issue). Mr. Kauffman quoted the Indian Prime Minister as having told him.

If Mr. Rao in fact said this, even if this is all he told Mr. Kauffman in regard to the suggested intervention by the Commonwealth, it would signal a significant change of stance; specifically, it would mean a departure from India's consistent adherence to and invocation of the Simla Agreement which excludes third party interest or intervention in Kashmir and enjoins upon India and Pakistan to settle the problem bilaterally.

Mea's Reaction

Apparently, however, Mr. Roa said nothing of the kind to Mr. Kauffman. The MEA's belated reaction categorically denied this Mr. Rao himself, in his Independence Day address, also rejected any third party mediation on Kashmir.

However, it would have been far better and would have convincingly set the record right and also pre-empted whatever Mr. Kauffman may choose to say about it back in England. If South Block had arranged to have Mr. Kauffman himself deny it in a press conference in New Delhi prior to his departure.

Far from doing anything like that, the MEA mandarins, according to one newspaper report, are smarting under the possibility of Mr. Kauffman having taken exception to Mr. Chavan's remarks in the Lok Sabha: The attitude underlying this misplaced concern, the deep-rooted complex it reveals, is precisely what has made Indian diplomacy generally and Indian diplomacy on Kashmir in particular so often come a cropper in international fora. The MEA will have no one but itself to blame if Mr. Kauffman's positive exertions in England cause adverse publicity for India on Kashmir. So much for organising such ill-conceived "goodwill" visits:

Courtesy: Indian Express, August 19, 1991.

CLINTON ON KASHMIR AN IRRITANT

K. Natwar Singh

President Bill Clinton in his address to the United Nations General Assembly in New York on September 27, 1993, included Kashmir among the major trouble spots in the world By doing so, he inflicted on India an unnecessary public diplomatic bruise. We must, however, take an overall, long term view of Indo-US relations and should neither minimize nor maximize the significance of this "mis-characterisation". The Clinton administration's grasp and understanding of foreign affairs inspires little confidence from Bosnia to Somalia to Georgia.

The US President said, "thus, as we marvel at this era's promise of new peace, we must also recognise that serious threats remain. Bloody ethnic, religious and civil wars rage from Angola to the Caucasus to Kashmir".

Attention needs to be drawn to something far more important and worrying than President Clinton said in his UN address. He was forthright about America's global role in the post Cold-War era. That, to my mind was far more serious and needs to be studied and carefully analysed. Mr. Clinton declared, "Let me start by being clear about where the United States stands. The United States occupies a unique position in world affairs today. The United States intends to remain engaged and to lead". Here he clearly rejected the sage advice of America's most distinguished and sensible foreign policy pandit, Professor George Kennan, Professor Emeritus at Princeton University, who in his recent book "Around the Cragges Hill" recommends for his country, "a very modest and restrained foreign policy, directed to the curtailment of external undertakings and involvements wherever this is in

any way possible, and to the avoidance of any assumption of new ones". Prof. Kennan also says that the US needs less, not more, external involvement.

Ramifications

The Clinton gospel — "We intend to lead" — has disturbing ramifications. Let me quote George Kennan again, "I should make it clear that I am wholly and emphatically rejecting any and all messianic concepts of America's role in the world, rejecting the image of ourselves role as teachers and redeemers to the rest of humanity, rejecting the illusion of unique and superior virtue on our part.....".

When Mr. Clinton succeeded Mr. George Bush as President, there was no great excitement in India but certainly an expectations that the new Democratic administration would look at India with fairness and show understanding of the complexities of Indo-US relations. So far this has not happened in most areas of our bilateral relations.

The ten month "India Record" of the Clinton Government indicates that Indo-US relations, as seen from Washington, are not on a steady course. A critical appraisal of the actions, assumptions and postulates of Mr. Clinton's Government indicate the following:-

(1) An unfocussed view of India.
(2) Jettisoning the Simla Agreement.
(3) Needling India on the NPT.
(4) An enlightened and sympathetic understanding of India's economic reforms.
(5) Low priority to India and our concerns.

It will, therefore, be seen that American policy towards India has both negative and positive aspects and is not free from contradictions.

World Agenda

The unfocussed view is no doubt responsible for Mr. Clinton's "mischaracterisartion" of the Kashmir situation. If he were to objectively study the history of the origins of the so-called Kashmir question, he would have come to a different conclusion. His closest advisor on India no longer con-

siders the Simla Agreement relevant. This is a major departure from the view held by the Bush Administration.

It seems the ground is being prepared to bring Kashmir on to the international agenda. This could be done in several ways. The obvious one would be to raise Kashmir under the new human rights mantra, in the General Assembly, the Security Council, NAM etc. The OIC will do Pakistan's bidding. IT has 51 members at the UN. Our diplomats face a stiff and sustained challenge. Mr. Clinton's intentions were no doubt honourable but his reference to Kashmir undoubtedly gave comfort to Pakistan and encouraged the representative of the Organisation of Islamic Countries (OIC) at the United Nations to take India to task on our human rights record in Kashmir.

Strange things happen at the UN. Perhaps someone will also point out to the OIC the grave violations of human rights by a majority of its members. They are in no position to point a finger at India. At the same time India must restore normalcy in the Kashmir Valley and produce an acceptable political instrumentality. It is too serious a matter to be left to well meaning retired Generals. We no longer have the Socialist block and the Soviet Union to help us out. Unlike Pakistan, we have to go it alone.

The Clinton administration's India score cards makes depressing reading. Within a week of assuming the Presidency, Mr. Clinton shifted Ambassador Pickering from New Delhi to Moscow. The man had been in India only for five months. For more than six months the post of US Ambassador in India has been lying vacant. John Mallot's deeply offensive and maladroit performance in May this year did no good to Indo-US relations. That he was allowed to get away with it, reflects poorly on us. He would have fared differently in Beijing or Singapore. Similarly, India's mild reaction to US arm twisting on the Cryogenic rockets only encouraged the Americans to turn the heat on. 301 is another irritant. Mr. Warren Christopher has not deemed it necessary to visit India so far, although he has been in the neighbourhood several times.

In God's name, what right has the US to lecture India on the NPT? Now that the Cold-War is over, what logical justification can the Americans offer for retaining their nuclear arsenal? Rajiv Gandhi's 1988 Plan to denuclearise the world still awaits positive American response.

How should India react? Because react India must. India should do so with sobriety and dignity, bearing in mind the familiar virtues of understatement and restraint, which make diplomatic intercourse both agreeable and civilised. At the same time, India should guard the conduct of a creative and forceful diplomacy and the formulation of a coherent and meaningful foreign policy. The bottom line is that Kashmir is not negotiable.

Not Negotiable

Only in one major area can we derive comfort. Finance Minister, Manmohan Singh has just returned from Washington after participating in the annual meeting of the Board of Governors of the World Bank and the IMF. He received undiluted praise for his work from all present. The Americans went out of their way to express their appreciation. Ms. Joan Sparrow of the State Department called on him. Secretary of the Treasury, Lloyd S. Benston was fully supportive and said so.

In India's case, unfortunately there is a dark cloud to every silver lining. Unless the nation puts its administrative and political acts together, the economic take off will, in real terms, continue to delude her.

Courtesy: Hindustan Times, October 15, 1993

AMERICA MEDDLES IN KASHMIR AGAIN

Maharaj Krishana Rasgotra

The United States of America is a wonderful country of people of great energy and industry, goodness of heart, friendship and sincerity. Success often inclines people to be self-righteous and preachy, and perfectly good Americans can, sometimes, be quite overbearing and demanding. In particular, junior American officials, who would pass un-noticed in Bonn (Germany), Brussels (Brazil) or Rome (Italy), like to play good in Asia capitals.

In his recent visit to Delhi Mr. Jhon Malott, equivalent of a Director in the Indian Government, excelled in the role. He has said on return to Washington that he was in Delhi to convey a message. In fact, he delivered an ultimatum and surrounded the delivery with a good deal of threatre. The crux of it all was: you Indians do not know how to manage your affairs; do as we direct, or else. In passing, he mentioned aid cut-off and sanctions.

Reshaping Policy

Perhaps, Mr. Malott was only testing the ground for a reshaping of Washington's India policy. Or, the policy has already been made and he was sent here to fling it at us, with much ginger and salt added to an already pungent potion. In either case, these first intimations of a change of policy in Washington ought to be taken seriously. They reveal an intent to meddle, once again, in Kashmir, an issue central to India's secular policy, her unity and integrity and crucial to the national status and well-being of 100 million Indian Muslims. A mistaken, interventionist US policy could give rise to a long era of bloodshed and turbulence in our regions.

In the messenger's wake, intimations of a sinister design in Kashmir have emanated also from other sources in our capital. Some American offi-

cials have aired the view, in New Delhi and in Srinagar, that they have much in mind the possibility of Kashmir's independence as a viable solution to the problem.

All this calls for the reiteration of a firm and united Indian response to nip the mischief in the bud. A resolute and unanimous reaffirmation of India's position on Kashmir by the Indian Parliament would be the best way to do it. Largely our political system has given the impression of being irretrievably lost in factionalism, division and dissent. The world should know that on Kashmir, at least, the entire country is of one clear, firm and united view.

There is some talk of a Prime Ministerial visit to Washington D.C. That capital is currently in the grip of transitional confusion, and such a visit could easily await a more propitious time. At any rate, the Prime Minister would be well-advised to ensure that India's viewpoint on Kashmir is made unmistakably clear to Washington before-hand. Otherwise, he would be subjected to unacceptable pressures and personal embarrassment, and relations, instead of improving, would be set back several years.

In considering our response to Mr. Malott's mission, America's record in relation to the Kashmir question should be borne in mind. From 1948 to 1953: Casting doubts on the validity of Kashmir's accession and full cooperation with Pakistan in the Security Council to divert attention from the basic question of Pakistan's aggression. In 1953, flirtation with the idea of an independent Jammu and Kashmir. In 1954; military alliance with an military aid to Pakistan to bring about an Indo-Pak military balance. In 1963-65, support for the idea of Indo-Pakistan joint control over Kashmir or partitioning of the Valley to give Pakistan access to it. From 1972 onwards, acquiescence in the Simla Agreement and support for bilateral talks to resolve the question.

Third Party

Mr. Malott said to a New Delhi audience that the Kashmir problem could no longer be left to be resolved bilaterally by India and Pakistan; he insisted that there is a third party, the people of Kashmir. He asserted that the whole of Jammu and Kashmir, on both sides of the Line of Control, is disputed territory. Pronouncements of this kind had not been heard from Washington since 1972. Even during the Bangladesh war in December,

1971, Americans were saying that our troops must respect both the Cease-fire Line in Jammu and Kashmir and the international border in Punjab — all in the same breath:

If these recent American declarations are any guide, the Clinton administration would appear to be seeking a mediatory role in Kashmir, but unlike in the fiftees, as a champion and protector not of Pakistan but of the People of Kashmir. It is 1953 all over again:

The Indian Government and the media were naive in looking to Washington for condemning Pakistan as a terrorist State. Why would America antagonise Pakistan for Indian reason? Or pressurise Pakistan to end its proxy-war to save Kashmir for India? Nations have to fight their own battles. We invited a rebuff, and now we have also to fight off an unwarranted intrusion in our affairs.

Pressure

Kashmir apart, what we have to contend with is the resumption in Washington of the Nixon-Kissinger diplomacy of threat and pressure. Something seems to have gone wrong with America's perceptions of Asia since the end of the cold war, more markedly since the Gulf War. From Iran in South-West to Japan in the North-East, virtually all Asian countries are under American threat or pressure of one or another kind. And yet for peace and stability, security and the protection of its own strategic and other interests, even for its trade and prosperity, America needs Asia at least as much as Asia needs America.

In the long term an Asia coming together would be the best antidote to such pressures. It is time China or Japan or Iran or India made a move to start the process. In the meantime, India will simply have to stand up to an affront and convince anyone, who still needs convincing, that sh will defend her national integrity, independence and honour with whatever it takes.

Americans seem determined to embarrass India, through international propaganda by agencies such as Amnesty International and Asia Watch on the question of alleged human rights violations in Kashmir. This is a gross insult to our democracy. Mr. Malott went to the extent of threatening that American dis-satisfaction over the human rights issue could spill over into other aspects of Indo-US relationship — trade, investments, aid, World

Bank and IMF loans, etc.

These are empty threats, disproved by the continuing expansion in America's economic relations with China and a number of other countries. Economic exchange between countries are not conducted for love; their stimulus is the scent of profit.

What is particularly offensive and objectionable is that a democracy of 220 million people should choose to transgress into an area of the domestic responsibility of another democracy of 880 million people. The human rights issue is a bogus one, stirred up to dishonour and demoralise our Armed Force, to cause estrangement between them and the people for whose security they are responsible, and to serve as a pretext for intervention for reasons which have little to do with the Kashmiri people's well-being.

The concept of man's supremacy, human values and human rights were first defined in this Asian land centuries before the West awoke to them. For centuries, Western humanism manifested itself in Asia as colonial barbarism. Is America going to embark on a new mission of civilising Asia?

Our societies are engaged in the process of correcting the deviations stratified into their living ethic by history while at the same time contending with a whole host of disruptive forces. In India, certainly, we are not unaware of the importance of human rights; and while there are violations and neglect, there is always also the anguish and the endeavour, in lawful and democratic ways, to set things right.

Human Rights

We became free only in 1947. Let any country's record of promoting and protecting human rights, over a period of 46 years, from any stretch of its history, be set against India's for the world's scrutiny.

India has troubles and shortcomings, but she is a democracy, vibrant, open and obstreperous like the American democracy. Nothing is hidden here. Fair criticism should be welcome to the Indian democracy from any quarter, especially from another democracy; but if their friendship is to grow, the ensuing discourse of threat and dictation between them will have to cease.

Courtesy: The Hindustan Times, June 3, 1993

KASHMIR ISSUE: THE INTERNATIONAL DIMENSION

*Mushahid Hussain**

The uprising in the Occupied Kashmir presents the first serious possibility of altering the political status quo in South Asia since the emergence of Bangladesh in 1971. The Kashmir uprising, coupled with a virtual state of insurgency among the Sikhs in East Punjab, provides a situation where two regions under Indian control, both having a non-Hindu majority, are in revolt.

The uprising in Kashmir can be viewed from three different perspectives. First, Pakistanis are pleased that unlike 1965 this time around it is a purely indigenous upsurge rooted in decades of deprivation, despotism and alienation by the rulers in Delhi. Second, in this age of self-determination, which has recently been manifested in Eastern Europe and even in the Soviet Union, Pakistan feels that its case for a plebiscite in Kashmir, which has the endorsement of the United Nations, is legally and morally strong.

Situation in the Occupied Kashmir

The situation in the Occupied Kashmir today is actually "India's Bangladesh". While Pakistan refused to accept the election results in 1971, India blatantly rigged the 1987 poll in the Occupied Kashmir and the recent election in India in 1989 had no locus standi in the Occupied Kashmir since there was hardly a 2% turnout. In both cases there is lack of legitimacy of the actions of the Central Government and the military crackdown is the inevitable result. Just as the Pakistan Army eventually ended up as an army of occupation in Bangladesh, the Indian Army clearly falls in the same cat-

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egory and it is behaving exactly as an army of occupation would behave. In both Occupied Kashmir and Bangladesh 1971, there was no political option left for the Central Government and in both instances, the foreign media were unceremoniously booted out in the expectation that the truth would not come out. While Bangladesh was created in December, 1971 because of India's successful coordination of its political, military and diplomatic moves, the outcome of the uprising in the Occupied Kashmir remains to be seen although the situation on the ground there is exactly the same as it was in East Pakistan 1971.

The American Position

The United States too has made known its position on this issue, which is not very helpful to the Kashmiris or to Pakistan. The American position can be summed up as follows:

Pakistan bases its case for self-determination of the people of Jammu and Kashmir on the successive UN Resolutions calling for "a free and impartial plebiscite". These resolutions were passed on August 13, 1948 and January 5, 1949 — resolutions which India initially accepted but later reneged on the plea that Pakistan, by entering into a military alliance with the US, had altered the region's security environment. Since these Resolutions, Pakistan has never considered the status of Kashmir to have been settled, notwithstanding the defacto situation. Third, the ferment in Kashmir needs to be viewed in the context of the general unrest that is evident in the strategic "Islamic Crescent of conflict" which begins at Israel and goes through India with the Intifida in Palestine, the struggle in Lebanon and the Afghanistan, the stirring in Azerbaijan and the uprising in Kashmir. Additionally, with the unravelling of the post World-War II status quo in East Europe, a similar process is underway in South Asia.

- The US accepts that "Kashmir is a disputed territory and that Pakistan and India should resolve the issue between them as agreed in Simla in 1972".

- The US no longer supports a plebiscite in Kashmir (both these positions were enunciated by US assistant Secretary of State for Near East and South Asia, John Kelly, during Congressional testimony in Washington on March 6, 1990);

- The US has privately conveyed to Pakistan that it is opposed to raising the Kashmir issue in the UN Security Council or even internationalizing it via such forums as the OIC;
- US accepts Kashmiris as the third party in the issue;
- The US even threatened during April-May 1990 to cut aid to Pakistan if Islamabad was found to be supporting Kashmiri freedom fighters, as such Pakistani assistance, in the US view, would amount to "aiding and abetting state terrorism".

Pakistan at an Advantage

Notwithstanding this diplomatic aspect of Pakistan's position on the Kashmir issue, two aspects pertaining to India can be viewed as pluses for Pakistan in the present situation. First, India can no longer be assured of solid and unstinted Soviet diplomatic or military support on the Kashmir issue as was the case 30 years ago. As it is, the Soviets have stopped looking at Pakistan through Indian eyes, a change in attitude best exemplified during Michael Gorbachev's visit to India in November 1986 and the subsequent restraining role of the USSR on India during its "Exercise Brasstacks". Second, India is today on the defensive diplomatically and its international image has been considerably dented as a consequence of its brutal suppression of the uprising in the Occupied Kashmir. The international and Indian media too has tended to equate the brutality of the Indian action in Kashmir with some recent repression like that of the Israelis against the Intifida of the Palestinians or the Soviet against the people of Azerbaijan. Additionally, the Congress Party, the pillars of the Indian Establishment, has suffered at the hands of the Indian electorate, India's secularism stands exposed at the altar of resurgent Hindu chauvinism and, like the Israelis after their failure in the Southern Lebanon, the Indian Army has returned bruised from Sri Lanka, with almost one-third of the Army now engaged in suppressing popular revolts in Kashmir, East Punjab and Assam.

They Said It

In India too, an historical revolution of Nehru's own role on Kashmir is apparently underway, painting the former Indian Prime Minister in a somewhat negative light as a leader whose myopic vision on Kashmir contribute to the unresolved conflict there. Kashmir is etched as a dark stain in

Nehru's rule as has partially been documented in books by the influential Director of Intelligence Bureau during Nehru's days, B.N. Mullik, in his "My years with Nehru" and M.J. Akbar in his recent study "Kashmir: behind the Vale". The dismissal of Sheikh Abdullah and his arrest in August 1953, was nothing short of an intelligence coup engineered by Nehru and he ended up blaming an old friend on trumped-up charges, keeping him in prison for 11 long years. Even an unabashed admirer of Nehru's like M.J. Akbar concedes that "what Nehru lost by arresting Abdullah was the moral argument" and adds that "Nehru's incomprehensible surrender to his unmemorable Home Minister (Sardar Patel who was a bigoted anti-Muslim) is inexplicable".

Way back in 1957, in his book "Envoy to Nehru", the Canadian diplomat Escott Reid had written that "on balance, Indian foreign policy has been a failure since it failed to achieve that most important goal of any realistic Indian foreign policy, the establishment of good relations with Pakistan. The stumbling block to the achievement of good relations between India and Pakistan is Kashmir. In order to hold Kashmir, India has sacrificed an immensely greater national interest".

Historical injustice apart, on the international front today Washington was the setting in July 1991 for the first ever international conference on the Kashmir issue to be organized in the United States. The conference brought in a varied group of scholars, writers and public figures including an American congressman and a British Parliamentarian. The organisers were the Washington-based Kashmir American Council and the London-based World Kashmir Freedom Movement. The small but affluent Kashmir-American community, mostly enterprising professionals, were enthusiastic supporters of this conference.

The conference was not just significant because it was the first such successful gathering in the United States, but it also brought into focus a new perspective and fresh insights into the Kashmir issue, with even Lord Avebury, Chairman of the British Parliamentary Human Rights Committee, suggesting that "the Kashmir issue should be placed before the United Nations Decolonization Committee". In effect, the Kashmir issue needs to be treated as a case in point of a territory that is continuing to suffer colonial control. The conference was particularly revealing on at least four counts, both historical and contemporary, that place the Kashmiri struggle in a qualitatively new context.

First, an important historical perspective to Kashmir was provided by a leading Kashmiri-American scholar who cited facts dating to the early and middle 19th century. In 1819 when Kashmir first came under Hindu occupation, the maiden act of the occupiers was to ban the slaughter of cows and the day the ban was promulgated, it was immediately enforced against a family hosting a bridal party which had slaughtered a cow. The host of the wedding and the bridegroom were dragged by their feet from their house in Srinagar and hung upside down for three days to set an example against cow slaughter. The Kashmiri scholar, Dr. Sayyid Syeed, then mentioned that the India, during the debate on Kashmir in the United Nations in the 50s, often used to proudly but erroneously proclaim that "the Kashmiris are different than other Muslims in India, they don't even eat beef".

The second fact cited by the Kashmiri scholar pertained to 1846. when the Dogra rulers took over Kashmir. He said soon after taking over Kashmir by the Dogras, all houses in the state were searched and all guns and sharp-edged instruments, including knives were confiscated. No Kashmiri was then allowed to keep or use even a knife. A license was required even to sacrifice a chicken, said the scholar. Only a mullah in the Mohallah had such an authority to use a knife - and the result over time, was the emergence of the myth of the passive, meek, non-martial Kashmiris".

The third important aspect brought to light in the historical context of Kashmir was a reference to the new book being written on the subject by the eminent British historian, Dr. Alastair Lamb. His book is scheduled to be published at the end of the year and he is said to make two key revelations, among others, in his study. One, that the Instrument of Accession, which India has always treated as the legal basis of its occupation of Kashmir, was signed, post-dated, by the Hindu ruler of Kashmir after the Indian Army has already landed in Srinagar, and not prior to the military's landing in Srinagar, as the Indians have always made it out to be. The other aspect about Dr. Lamb's forthcoming book on Kashmir is that, in his view, the decision to retain Kashmir with India had been taken by the British colonial administration under Mountbatten since the departing British felt that Kashmir was an important buffer to the north of India against the Communist Soviet Union. Since it was a political decision taken by the colonial administration, there was therefore no question of allowing the future of Kashmir to be decided through the popular will of the inhabitants of that area.

The fourth aspect on Kashmir, and discussed during the conference, pertained to the character of the contemporary struggle for freedom. Some highlights:

- The then Indian Home Minister Mufti Mohammad Sayed himself confessed in an interview in February 1990 that "all elections in Jammu and Kashmir, barring 1977, were rigged", thereby belying the old argument peddled by successive Indian governments that Kashmir's accession to India was final since it had been "legitimized" through elections

- In January 1990, Srinagar witnessed the biggest ever mass demonstration when a million plus Kashmiri men, women and children turned out in the streets of Srinagar protesting against the Indian Occupation, certainly the biggest such spontaneous outburst of protest and anger since the days preceding the Islamic Revolution in Iran when demonstrations of such size and fervour were seen in Tehran, and this was followed by something even more unprecedented, when Srinagar and its adjoining areas had to face a curfew for a record 17 straight days without interruption;

- With almost 3,50,000 men at arms - Army, Paramilitary forces, police, etc., - to control and suppress the uprising in the Valley which has a population of 2.5 million, of which less than a million would be in the range of able-bodied young men, this would imply, without any doubt, the highest ever per capita ratio of troops per population in contemporary human history, with a ratio of one Indian armed military man for roughly every 3-4 Kashmiri youth.

These staggering statistics are instructive in providing an insight into the situation in Occupied Kashmir, which the Indians have now themselves internationalized by inviting in armed Israeli commandos whose discovery in early July 1991 indicates assistance and advice to India on how best to suppress the uprising given Israel's own experiences in endeavouring to brutally suppress the Intifida in Palestine.

However, the most apt summing up about the situation in Kashmir was provided during the early stages of the uprising by a prominent Indian

journalist, G.H. Jansen, who wrote: "Two things are clear: the Kashmiris of the Valley, enmasse, want to have done with India, and they have lost enmasse their fear of India's security apparatus. When a people reach and pass that tip-over point between fear and non-fear, it is an awesome development which I was privileged to observe at first hand in Iran and the West Bank. It is also irreversible: once fear is lost it can never be reimposed. And it is also irresistible, once the popular will, through political mistakes, is allowed or forced to become really popular and really united.

To describe this very important new element, this sea-change in the popular will as a result of Pakistani subversion or of agitation by a small clique is, surely, to be purblind or ignorant. This means that if India tried to reimpose its will by force in Kashmir it will only provoke a guerrilla war".

Courtesy: Parlance, October, 1991

NEW US OUTBURST ON KASHMIR CLINTON'S BUMBLING FOREIGN POLICY

Batuk Vora

If there is one area in which President Clinton has taken maximum blows from the local and international critics, it is that relating to foreign policy. Moral postures like human rights, prevention of proliferation, working for freedom and justice on global scale — all this may sound attractive to a section of the American people, but it is not working in practice. The new line on Kashmir rejecting the very Instrument of Accession and with a view to play an activist role inside the Valley may also face the same consequences, if India plays its cards well.

In reality, if one believes the recent Times Mirror Centre's poll that questioned some six hundred and fortynine leaders of nine groups (media, business/finance, cultural, foreign affairs, security, etc.), to name which of six "dangers" facing the world was greatest, fifty-one per cent of scientists and engineers named population growth as the greatest danger. No other elite mustered even a 50 per cent vote for any other given danger: "America's World Role: Divided We Stand....." was a screaming headline of a report in the Los Angeles Times on this poll.

The overall result of this poll showed utter confusion. Different elite groups found different challenges compelling. Given this disarray nationwide here, whose advice should President Clinton follow?

No surprise then that Ms Robin Raphael, point person for South Asia in the State Department, shot a poisonous arrow at India on Kashmir. She got this freedom because of such a nationwide confusion of foreign policy. She may have to retreat once Clinton finds himself in a box. Others

had to retreat on other issues. Incidentally, the Clinton Administration's fumbling on Kashmir is matched by the Government of India's "no Kashmir policy". But this remains India's internal problem. It is a tragedy that has befallen on the Kashmiri people.

Robert Okley was the point person in Somalia. As the State Department's counter-terrorism operator, he publicly embraced Mohammad Farrah Aideed, last December, giving him the legitimacy. He called Aidid's leader. He stayed in a house rented from Aidid's financier — Osman Otto — a man now held in UN custody as an accomplice of Aidid's Crimes. He had to leave Somalia because of this and the US-UN tried to capture Aideed. The US faced disaster in the death of a few American troops. Suddenly the policy changed. Oklay was brought back. He is now busy again to make friendly gestures towards Aideed and other tribes.

Another Us official, April Glaspie, is accused by some media here of showing sympathy with Aideed's opponents in Somalia. This is the same lady who in 1990 had an exchange with Saddam Hussain, prompting him to think that the US remain complacent towards his invasion of Kuwait:

Strategically it is true that Kashmir's Independent status, once the self-determination theory is applied to it, may serve the long-term US interests. But this is a far-fetched idea and those in the State Department may have their own doubts over it. Poor understanding of the local situation and wrong perception of their "national interests" have combined to create fiasco at other world spots. Once Clinton is made to realise the dark prospects all round Kashmir once it is allowed "self-determination". he will turn around without looking back again.

In Haiti, Clinton turned around a ship carrying American troops on a peace-keeping mission when a gang of thugs at Port au Prince raised a ruckus. He pulled another switch earlier. He had promised in last year's election campaign to reverse a George Bush policy of forced repatriation of Haitian boat people. He adopted the Bush policy soon after the election:

In Bosnia, Clinton strongly advocated air strikes and military aid to embattled Muslims but backed off when European allies declined to go along. He has realized there is no vital American interests there. But even then he has kept 25,000 troops on an indefinite, bloody, peace-keeping mission.

In Russia, Clinton has repeatedly declared his support for Yeltsin's type of "democracy" because he saw the vital American interests in danger over there without Yeltsin. But so many contradictions have emerged in recent weeks. Only a few days ago, the National Security Advisor, Anthony Lake, declared that the foundation of American foreign policy was "enlargement: of democracy worldwide. But everybody here seen Yeltsin as a despot, applying "restrictions" to democracy and not "enlargement". So many critics ask Clinton to abandon him.

At present, it is Japan's fear on trade and investment from that leads Clinton to push forward the North America Free Trade Agreement with Mexico and Canada. The NAFTA is part of a new foreign policy on Latin America. Japan established a foothold in Mexico since the 1960s. For the US may be the Pacific Rim extends up to US West Coast, but for Japan and Taiwan and China the Rim extends upto Latin America also. Peru and Chile are potential economic players in the region. Japan has penetrated Chile as its largest export market. Chile is exporting more to Japan then to the US. Peru under Fujimori of Japanese descent and Chile under Patricio Alwyn and Argentine under Carlos Menem have rejected the protectionist trade policies and opened up their markets. Clinton is in trouble to persuade his fellow Democrats why open markets as such could be bad and how the NAFTA can be a good way out for the Americans.

Latest, a letter handed over to India's Ambassador, Siddharth Shanker Roy, by the US Under Secretary of State. Peter Turnoff, guaranteeing India's national integrity speak of such contradictions. It may not be impossible for India to get Robin Raphael sacked or replaced if it adopts more intensive lobbying in Washington with material incentives. Pakistan, after all, achieved this feat only after spending a lot of money. Nothing moves here without cash.

Courtesy: Mainstream, November 20, 1993

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CLINTON'S RIOT ACT RESPONDING WITH AUDACITY OVER KASHMIR

Swapan Dasgupata

At the best of times, the agreeable surrroundings of the India International Centre, sandwiched between the Capital's Lodi Gardens and the Ford Foundation, epitomize the liberal establishment's adroit sense of positioning. At worst, Stein's celebration of space provides the facade for its conscious detachment from the concerns of India.

It is difficult to gauge which of these moods prevailed in theIIC last Wednesday after Mr. John Malott, the visiting U.S. Principal deputy assistant secretary of state, read out President Clinton's riot act on Kashmir. At one level, there must have been an awareness of the irony inherent in a representative of the world's most powerful country attaching greater importance to human rights and morality over real-politik, thereby giving succour to the secessionists. At another level however, the visitor's concerns should have corresponded neatly with the establishment's own preoccupation with discovering a humane antidote to widespread Muslim alienation in the Valley.

Conclusive Evidence

It is unfair to blame to Mr. Mallot's self-righteous intervention alone for this demoralisation. On the eve of his visit, the government attempted to put on a brave face by summoning an extremely high-powered press conference to divulge "conclusive" evidence of Islamabad's involvement in terrorism. Earlier, considerable publicity was given to the CIA Chief's assertion that Pakistan was on the verge of being declared a terrorist state. The conviction that Pakistan was playing on the back foot was also bolstered by Ms

Benazir Bhutto's damage containment visit to London and Washington on behalf of a beleaguered regime.

That Pakistan's hiccups over its policy of brinkmanship in Kashmir have failed to give Indian diplomacy a corresponding advantage may be attributed to two factors. First, a strong conviction in the U.S. that the tensions in Kashmir could lead to the escalation of a nuclear-arms race in the neighbourhood. It is a belief that has been carefully nurtured by U.S. academics and the liberal think-tanks such as the Carnegie Endowment which have acquired fresh relevance following the Democratic party's victory last November. The alarmism has also fitted in well with the concerns of a new morality centered on the rejection of the "family values" conservatism of the Reagan and Bush administrations. The shenanigans of gay rights activists is the most visible feature of this counter-reformation, and the lachrymose concern over human rights in Bosnia and the Kashmir valley its logical corollary.

It is, however, doubtful the Clinton administration's sanctimonious perception of Washington's role in a unipolar world would have succeeded in creating nervous jitters in New Delhi had the Narasimha Rao government itself been more purposeful in coping with the insurgency in Kashmir. With Mr. Rajesh Pilot's over-publicised initiative in the state coming an instant cropper, there is now a helpless realization that the Centre has exhausted its conventional options.

The civil administration in the valley is in shambles after the government employees strike and the police mutiny, the political process is absolutely non-existent, large tracts have been declared "liberated" zones, and the military has been reduced to defending its own bunkers. Worse, terrorism has spread beyond the valley prompting fears of new exodus of Hindus from Doda district. The recent cabinet decision to entrust security operations to the army, far from being taken for decisiveness, is being viewed as conclusive evidence of desperation. Notwithstanding some reverses in the past week the insurgents are elated that the state is losing its vitality amid a relentless war of attrition.

Limited Scope

Indeed, judged within the parameters of the conventional approach, India's scope for manoeuvre seems very limited. There may be a temptation

to eschew false pride and endorse a flawed Non-Proliferation Treaty, if only to allay fears of an India-Pakistan conflict becoming unmanageable. But assuming such a capitulation results in Washington losing all interest in Kashmir and treating the troubles there as a localised. Third World conflict, it still leaves the threat posed by Islamic encirclement unattended.

A vulnerable regime in Pakistan may arguably be persuaded or coerced by the West into stopping the flow of arms into the valley, but there is absolutely no guarantee that other non-official avenues will be sealed. This is not any empty fear in view of the evidence that Kashmir has become a cause clebre for erstwhile crusaders in Afghanistan. The manner in which th OIC has been steadily pushing Kashmir into the forefront of the Islamic agenda merely compounds the anxiety.

Nor are matters helped by the fact that it is mythical to refer in the present tense to a Kashmiri variant of Islam marked by syncretism and Sufism. From all accounts, contemporary Kashmiriyat has been hijacked by the Jamit-e-Islami and disciples of the Iranian revolution. The sub-continental feature of the Muslims faith in Kashmir appear to have been drowned in the wave of Islamic globalism which even the non -fundamentalist JKLF is powerless to resist. Under the circumstances, it is doubtful whether restoring the quantum of autonomy to the pre-1953 level will even remotely cope with the aspirations of the insurgents. Each grudging concession may even be equated with retreat.

Awkward Options

To put it bluntly, New Delhi is confronted with awkward options. It can either accept the logic of Azadi and move towards a honourable retreat that safeguards the interests of Jammu and Ladakh and minimises Pakistan's strategic gains. The James Clad proposal for a second partition of Kashmir and India is in tune with such thinking. Alternatively, it can view the Clinton administration's "preventive diplomacy" as a passing phase, born of inexperience and moral distemper. Therefore, while stalling Washington, it can move towards an aggressive projection aimed at public opinion in the West - of the global implications of the loss of the Kashmir Valley, linking it with the turbulence in Egypt, Algeria, Afghanistan and Central Asia.

Of course, such a decisive positioning requires an associated shift in the paradigm of domestic politics which is not immediately in evidence. It is not possible to alert the world to the dangers posed by the fundamentalist on-slaught, if the real preoccupation is with a likely fallout in the Yelahanka by-election.

Last week, there were two overseas visitors both of whom touched on our concerns over Kashmir. Mr. Malott favoured an approach which flows from the logic of India's existing polity. The Israeli foreign minister, Mr. Shimon Peres, is said to have suggested a more audacious rupture with the past. The time is fast approaching when India will have to choose between the two alternatives. The scope for enjoying the best of both worlds seems long past.

Courtesy: The Times Of India, March 26, 1993

Section - H

KASHMIR SOLUTION AND SUB-CONTINENTAL CONFEDERATION

Rajat Kanta Roy

The Indian subcontinent is once again at the cross-roads as the saffron surge continues unabated. The generation that lived through the bloody events of 1947 experienced a bitter but partial separation. No one can claim that Hindu-Muslim relations were always untroubled. There was a great deal of hatred, and a lot of love. As early as the fifteenth century, the poet Vidyapati of Mithila had penetrated its essential character: HINDU TURUKE MILAN BAS EKAKA DHAMME ATTAKA UPAHAS KATAHU MILIMISHI KATAHU CHHED ("The Hindus and Turks live together. They laugh mutually at one another's religion. There is so much of mingling, and so many partings").

The saying went that the quarrel between the Brahmin and the Yavan was inherited by one age from another. Despite all the bitterness embedded in folk memory, the cry was torn from the heart of Indian civilization:ISHWARA ALLAH TERO NAM, SUB KO SAMMATI DE BHAGWAN". Raghupati Raghav Raja Ram, in whose name Tulsidas recorded this immortal sentiment in the sixteenth century, has occasioned today a hideously distorted sentiment: the slogan, "MUSALMANO KE DO SITHAN, PAKISTAN AUR KABRASTAN" has echoed in the streets. Such sentiments may be traced back directly to the hate-inspired thoughts of the RSS Chief, M.S. Gowalkar, and pose a challenge to the basic character of the Indian state.

L.K. Advani has argued that Hindus had provided the cultural basis of the Indian nation from ancient times. In other words, the nation had been

there long before independence was won from the British in 1947. The BJP view of the matter — that is, the nation goes back to the Vedic times — has a generic resemblance to the government of Pakistan's complementary view as set out in A History of the Freedom Movement (1957). This four-volume work begins with the Arab occupation of Sind and then sets out to narrate "the Story of the Muslim Struggle for the Freedom of Hind-Pakistan, 1707-1947".



Had the verbal duel been confined to the politicians in New Delhi, the fate of Indian civilization would not have been at stake. But the battle is for the possession of the very mind of India's future generation. It is being fought in schools, where the world view of the coming generation will be shaped. The RSS-inspired institutions are engaged in drawing up special syllabi for primary and secondary schools in the four BJP-ruled States. Two such institutions — the Vidhya Bharti and the Bhartiya Shikshan Mandal — are preparing model textbooks on moral science, yoga, Indian history and language courses. The revised textbooks will glorify ancient India, while sharply attacking the Muslim and British rulers. They will project the view that India has been "one nation, one people and one culture" from time immemorial, and not a syncretic civilization that has assimilated diverse peoples and cultures over the centuries. The emphasis is on (Indians", as distinct from the universal rationalist humanism of modern Indian culture since the days of Raja Ram Mohan Roy. This comes at a time when the Congress-run Human Resources Development Ministry at the Center is planning to revise history curricula in keeping with the secular ideals of India's freedom struggle.

That is not to say that a broad all-inclusive humanism remains the intellectual property of the elite alone. The syncretic tradition going back to Sheikh Nizammuddin Avliya, Kabir and Guru Nanak was still alive in the nineteenth century among the Bauls of Bengal, who subscribed to a body-centered materialistic devotionalism opposed to both caste and community. The most well known of the Bauls, Lalan Fakir, was by birth a Hindu Kayastha. The doctrines held by the Lalan Shahis were neither Hindu nor Muslim, but a modified, version of ancient Indian materialism. But the enlightened Bengali BHADRALOK held the lowly Bauls in contempt for their "obscure", "obscene" practices and no one lifted a finger when the fundamentalist maulanas of Bengal issued a FATWA for their destruction around

1918. Lalan's disciple, Daddu Shah, fought back, but it was a losing battle. "Brother", he sang, "communal antagonisms (JATAJATI) are the sole reason why the FIRINGIS came and became rulers of this country. The hundreds of millions of inhabitants of Bharat did not mingle together as one people, so a few FIRINGIS came and enveloped the land". Lalan's contemporary, a nineteenth century Hindu Baul named Madan, said in a song collected by Rabindranath Tagore's colleague Kshiti Mohan Sen:

> The way has been barred by the mandir and the masjid O my Lord I can hear the call, yet I can't reach thee. My way is barred by the guru and the murshid.

The rationalist-humanist outlook of the patriotic English-educated middle class had hardly any point of contact with the syncretic popular cults in the villages. There was no effective counterpoise to the fundamentalist forces that gathered momentum among the mass of the people.



Where is the solution? The problem is such that no truly effective answer may be found within the framework of the existing Indian Union. One must ponder over again a formula suggested by the Aga Khan in 1935: "Make India what she is, that is, a United States of Southern Asia". There, the Muslims, with their "impregnable" position in the north-west and Bengal, would be able to guarantee the interests of their co-religionists elsewhere and at the confederate centre. This was the germ of the idea that was later embodied in the Cabinet Mission Plan of 1946.

Traces of the idea can be found even earlier especially during the Indian struggle in 1857, when it was proposed that the various chiefs, rajas and nawabs lead the sepoys and the people into a confederation, acknowledging the suzerainty of Emperor Bahadur Shah at the Red Fort.

The rebels arrived at an interesting formula to describe the quasi-national front against the British. Scores of Mutiny proclamations repeated the phrase — "Hindus and Mussalmans of Hindustan". The idea behind it was not just harmony between the two major communities of the subcontinent but something more, or rather, something different: two separate peoples (QUAMS) tied into one political confederation by the shared perception of Hindustan as one land.

The same vague conceptions reappeared in the popular notion of Ram Raj and Khalafat during the Indian struggle of 1920. The Ulama and the Ali brothers articulated a vision of the Indian destiny not altogether dissimilar to that of 1857: one country with two realms; two nationalities within one people. In both 1857 and 1920, the emphasis was on the autonomous management of communal and local concerns, with the state maintaining a distant presence and no more.

In 1946-47, as Ayesha Jalal has shown, a confederation was within the reach of the Indian people. Mohammad Ali Jinnah, who had fought so tenaciously for Pakistan, was keen on a political arrangement which would involve two federations — Hindustan and Pakistan — linked by a British Crown representative who would "coordinate the policies of the two federations in such matters as defence and foreign affairs". Each country, he told Major Woodrow Wyatt, should have a separate constitution under the arrangement. It was in response to this that the Cabinet Mission came to India with a plan for the confederation of the Muslim "group" of provinces. Mr. Jinnah, though no longer keen, was willing to accept the Cabinet Mission Plan, for this would safeguard the position of Muslims in Hindustan and would avoid the inevitable division of Bengal and Punjab in case partition was to be decided upon. Mr. Jinnah was even willing to include a separate and sovereign United Bengal in the confederation. But the proposed confederation did not accord with the Congress vision of a strong, integrated secular democracy with socialist aspirations. For whatever reason, and due to intransigence on both sides, the Cabinet Mission Plan fell through.

The Muslims of India, as Maulana Abul Kalam Azad had anticipated, were left in the lurch under the substitute partition plan. That plan, together with the further settlement of 1971 after a civil war and Indian intervention in East Pakistan, has created out of the Indian subcontinent three countries with no constitutional link whatever: Pakistan, the Indian Union and Bangladesh. Under the present arrangement, all three countries are vulnerable to further secessionist challenges; and the Muslim minority in India, and Hindu minorities in Pakistan and Bangladesh, suffer oppression. Not only have India and Pakistan fought three wars with each other; they have busied themselves with instigating the secessionist movements in "enemy" territory: Pakistan in Kashmir and Punjab and India in Sind. And now, in addition, there are mutual suspicions between India and Bangladesh: the Chakma exodus from the Chittagong Hill Tracts and the ULFA's terrorism in Assam have fed these suspicions.

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What is the way out? the key to it lies in Kashmir. Here is a chance, not so much to cut the Gordian Knot, as to tie a new knot bringing the subcontinent together again. Of all the secessionist movements within the subcontinent, the one in Kashmir is by far the most explosive, over-shadowing even the Khalistan issue. If a free and fair referendum is held, with militants being kept at bay, there is no doubt that the Indian part of Punjab will, of its own accord, decide to stay with India. It is no less certain that, in such a referendum, Kashmir would vote for independence, or even perhaps merger with Pakistan. To hold on to Kashmir will strain the Indian Army to the limit; and may ultimately break the nerve of the Government of India, with disastrous consequences.

The basic solution is simple, though the negotiation may be enormously complicated. It involves reaching an agreement with Pakistan whereby Kashmir may once again become a united and sovereign state, linked to both India and Pakistan. The opening gambit in this plan is an arrangement by which the frontiers between India and Kashmir, and those between Kashmir and Pakistan, will be open. Step by step, it may even be possible to build a Confederation of the Indo-Ganges, with a common economic zone covering the entire subcontinent on the pattern of the European Community. All this, while leaving the sovereign states and armies of Pakistan, India and Bangladesh intact, and allowing autonomous republics to become new members of the confederation. All it need have, in the first instance, is free travel, a freely convertible currency and a common trade zone.

In the past, India was a civilization, not a nation. It is still possible to restore the unity of Indian civilization while giving up the strenuous and self-bleeding exercise of national integration. In this respect, the Indian subcontinent is in a condition not so dissimilar to Europe, which, too, is rooted in a common civilization, though politically divided into many states. If a United States of Europe is being envisaged, why not a confederation of the Indo-Ganges? That will be the auspicious hour when the children of the sub-continent will find voice in Gora's last words to his mother, Anandamayi:

> Mother, you have no caste, no prejudice,
> no hate. You are simply an image of goodness.
> You indeed are my India.

(Courtesy: The Telegraph)

KASHMIR: A VIEWPOINT

Ali Ashraf

During the recent months the Kashmir problem has assumed a seriousness that calls for fresh and bold initiatives to deal with it. Many opinions and options have been offered and these boil down to three alternatives: (a) recognition of the Line of Actual Control; (b) referendum with the choice to join India or Pakistan; and (c) independence. Recently Dr. Farooq Abdullah suggested the first option, that is, the LAC; however, neither India nor Pakistan seem to be game for it. And indeed the LAC may not be acceptable to the people of Kashmir at this stage of developments. Thus the LAC is virtually a non-starter. The second option of Kashmir joining India or Pakistan has roots in the Partition of India, but would leave a trail of consequences that would permanently destroy the prospects of peace on this subcontinent.

The third alternative would be welcome to the Kashmiris, but will involve a further partition of Independent Kashmir into three separate units. The logic of partition on religious grounds rules out Jammu and Ladakh from their inclusion against their wishes into a composite state of Kashmir. The viability and security of a truncated Kashmir could be another problematic.

Is there no way out then? I believe there is a way out provided we consider the issue of Kashmir in the context of the future of this subcontinent. Fear and mistrust, bigotry and chauvinism have created barriers between the two major communities of South Asia, but they have had a long history of shared life and culture. The Hindus and the Muslims within India, Pakistan or Bangladesh have a cultural homogeneity that is only too obvious and perceptible once you move out of South Asia. Also the conflicts between them during this century have by no means been more acute than

those between the European nations. If France and Germany can come together to form a common market and even a political union, what is it that prevents India, Pakistan and Bangladesh to move towards a common market with open frontiers and free trade in culture and commerce? The gain would be not only in terms of mutually advantageous trade but also the reduced defence expenditure. There would be additional benefit in pooling the sub-continental resources to combat the common challenge of poverty and utilization of land and water resources to mutual advantage.

The value of peace and cooperation among the countries of the subcontinent would be tremendous in human terms and also in finding a solution to ethnic and regional insurgency. Once a decision is made to move towards a South Asian Common Market, the people of Kashmir on both sides of the LAC can be allowed to unite on condition that they join the South Asian Community. Such an arrangement will obviate the pulls and pressures between India and Pakistan over the future of Kashmir, and would also avert any intrusion by Big Brothers from abroad.

Rationality by no means is a guarantee of political solutions. Will Pakistan agree to join a South Asian Community? One does not know. But what is the guarantee of acceptance of other solution? India, Pakistan and Bangladesh would do well to recognize the fact that despite differences among them, they are not only neighbours but also united in history, geography and culture; and united they can be a force of international significance. And why should they not be united? The community will not destroy their independent status and yet eliminate unnecessary and baseless conflicts over issues like Kashmir and Farakka. There are differences of interests and opinions within the most homogeneous states, and such differences will continue among the members of South Asia Community.However, unity and common action to tackle their common foes and to foster cooperation for the development and welfare of their impoverished peoples will usher in a new era of peace and reconstruction in the subcontinent.

In the absence of such a comprehensive package deal, I see no prospect of a lasting and satisfactory solution to the vexatious and debilitating problem of Kashmir. And it is not only a sound but a feasible solution. If the Blacks and Whites in South Africa, or the Arabs and Israelis, or the French and Germans can shake hands and try to become friends, in spite of many persistent problems, there is no reason why the Indians, Pakistanis and Bangladeshis cannot do it. What is required is a concern for our people and a

capacity for imaginative action. Small minds cannot accomplish big tasks and if we are not equal to the challenge of building a subcontinental community, we are condemned forever. Whether it is the Muslim or Hindu Sikh or Christian, we can cherish our own ethnic and cultural treasures and still overcome the conflicts and promote the cause of peace in the region.

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There is a danger that could threaten to tear the subcontinent into pieces. And it is religious intolerance and bigotry. It is not possible to eliminate prejudices overnight forever. However, it is not at all necessary for prejudices to degenerate into mutual hatred and hostility and destruction. We must consider the safety and welfare of all the citizens in all these countries as of equal importance. Fortunately the recent elections in Pakistan have witnessed the emergence of non-theological politics on democratic lines. India has a longer experience of and hopes that the Hindutva is an internal problem and will stand in the way of subcontinental unity and cooperation. However, any more destruction of mosques and temples or outbursts of religious fundamentalism in any form will subvert the evolution of South Asia into a common market or a community.

There is another danger. It is fashionable in this subcontinent to flaunt our nationalism. Love of one's country is a natural and the attachment to one's motherland (or fatherland) is a normal feeling. History has, however, witnessed examples of both high-minded patriotism and vulgar chauvinism. Nationalism can easily degenerate into negation of humanity. We are entitled to our pride and prejudices, but in our private life. In public life we must follow the values and virtues of civility, according to each citizen his inalienable human rights. Nationalism must be made sublime and constructive by elevating it into super-nationalism. Indeed nationalism must now be made practical by shedding its excesses. Conceived in this way the evolution of warring countries into a united community will not only help to solve discreet problems but also lay the foundation of a new framework of peace and progress, and mutually beneficial era of freedom which we have not yet achieved even after the departure of the British.

Let us recall what E.M. Foster said in one of his anti-Nazi broadcasts in 1940:

"When a culture is genuinely national, it is capable, when the hour strikes, of becoming supernational, and contributing to the general good of humanity. It gives and takes. It wants to give and take. It has generosity and modesty, it is not confined by political and geographical boundaries, it does not fidget about purity of race or worry about survival, but, living in the present and sustained by the desire to create, it expands wherever human beings are to be found.

The entire world is a family, so say the ancient Hindu scriptures. Have we the wisdom and courage to implement it in this subcontinent? Sa're Jahaan se Achha Hindustan Hamara, so said poet Iqbal whom Pakistan considers as its national poet. Have we the honesty to translate the verse into a reality? This is the time to do it, or history will not forgive us."

Mainstream, January 1, 1994
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KASHMIR: DIALOGUE FOR A FOURTH OPTION

Prof. Iqbal A. Ansari

If one presumes that ruling elites in India and Pakistan are driven by primordial passions to destroy each other, in which Kashmiris are being exploited by one and repressed by the other, the scenario of the future is bound to be dismal, including horrendous nuclear adventurism.

If, on the other hand, we presume that reasonableness, if not complete rationality, based on a perception of enlightened self-interest is likely to prevail over mutually destructive passions, an acceptable and workable compromise should not lie beyond reach.

Whatever solution of the Kashmir problem, in that event, is arrived at after a couple of years or after decades, it will be some kind of a compromise incorporating features of various options including letting the present status continue.

There can also be an option that could provide greater degree of autonomy/independence for the Kashmiris (of the Indian side), India enjoying suzerainty over it. This option can have several variants accommodating varying kinds of relationships between India and Kashmir and degree and nature of Indian Kashmiri's linkage with Kashmir beyond the LAC. The other variable of the option will be the nature of relationship between Pakistan and "Azad Kashmir" which can be decided between the two parties, independent of or linking with other variable.

The question of letting the two sides of the original State of Jammu and Kashmir unite and brought under some sort of condominium between India and Pakistan can be left out of the present consideration of options.

Similarly seeking the solution of Kashmir in terms of Indo-Pak confederation, which is rather simplistic and based on imperfect understanding of the partition and the present and probable near future state of Indo-Pak (Hindu-Muslim) relations, needs to be left out of our consideration.

Any other option that provides any key-role to any external/international agency like the UN seems to have very little chance of acceptability as well as workability, for the simple reason that the UN has not yet succeeded in establishing itself as an impartial and effective custodian/umpire.

The new option envisaged herein, will have its final contours defined only as the product of a process of dialogue between the parties that is the Kashmiri people, India and Pakistan. To make the dialogue yield acceptable and workable results it will require:

Both India and Pakistan to treat the problem basically as that of a national/sub-national group's struggle for freedom started in 1931. In addition to the consideration of the primacy of the people the other requirement of a successful dialogue is the view the problem in the context of the inter-related destinies of the peoples in the whole sub-continent of India, Pakistan and Bangladesh, especially the shape of minority-majority relationship in these countries. It is the process of the process of the partition of India started in 1947 that is responsible for aggravating minorities' problems in the whole region, including that of Urdu-speaking "Bihari Muslims" left behind in Bangladesh.

By claiming Kashmir in terms of the unfinished agenda of partition, Pakistan, on the one hand, is ignoring the secession of Bangladesh on linguistic-cultural-territorial basis, which subverted the ideological basis of 1947 partition, on the other hand, it is callously disregarding the fate of religious minorities in the region.

There are two sets of people in India and Pakistan, who would oppose the idea of the primacy of the people and of wider existential responsibility. On the one hand are people who would like the Government of India to rule out any dialogue with the people of Kashmir. Their view is based on the "cruel demand of statecraft" which requires the State to terrorize people into submission. On the other hand are Pakistanis who would have nothing else than their pound of flesh.

It is now a challenging task for all those who, out of self-interest as well as idealism, would like the conflict to be resolved peacefully, to convince opinion makers and policy makers in India and Pakistan to reorientate their attitude to the problem and assumptions underlying them. They alongwith leaders of the militant movement in Jammu and Kashmir must be made to realize that the only alternative to the present no-win situation in Kashmir, which has already brought immeasurable suffering to the people there, is to start dialogue.

This realization on the part of the three should result in cessation of armed hostilities, Pakistanis stopping armed support of militancy and Indian forces leaving the movement in Jammu and Kashmir to be dealt with by the civil police under normal laws. It is not, however, enough to reorientate attitude and modify assumptions for a dialogue to succeed and yield results. It requires planning the structure of the dialogue on the principles of conflict-resolution in a multi-cultural context. Breakdown of dialogue, wastefulness and unsatisfactory results, whose examples are bound in most micro and macro level conflicts, owe themselves no less to the lack of strategic structuring of the dialogue, than to lack of good intentions.

The first pre-requisite for starting a good dialogue is to avoid laying down preconditions. If Kashmiris say that they are agreeable to an unconditional dialogue, it means that they will not insist on their right of self-determination and expect India not to insist on "dialogue within the framework of the Indian Constitution". Indian Government's condition of "within the Constitution" does not mean much. If the dialogue yields no results the Constitution's glory will remain undimmed; if it yields results requiring suitable amendments the amended document will still be called the Constitution of India, no less glorious for having been amended.

Then care will have to be taken to avoid making Kashmiris, especially militants, realize or the public in rest of India to be told that it was the successful Indian security operations that forced Kashmiris to submit to a dialogue. It will send wrong signals to the people of Kashmir, making them still more desperate. On October 27, 1992 the Kashmiri leader Syed Ali Shah Geelani, told this writer at his house in Srinagar that the gun was no solution to the problem; they were therefore prepared for an unconditional dialogue. But in case India continued to use force against the movement, the state of things would not change, he said. He reminded us that when Chandra Shekhar was the Prime Minister he (Geelani) had responded to his (PM's)

call for a dialogue, which Mr. Chandra Shekhar qualified the very next day, as "within the Indian Constitution".

It shows all Indian Governments have been wary for any moves on Kashmir lest the opposition leaders should criticize the PM and his/her party. It requires, therefore, to have a dialogue first of public opinion in India which should include, besides all political parties, media persons and NGOs. This dialogue convened by the Prime Minister should be based on a working paper which must give cost-benefit evaluation of all options including hot war. It should spell out, for example, the cost, in financial terms as well as in terms of risk to peace and stability in the country and the region and consequent loss of development opportunities in the event of continuing the present policy.

It has already cost the people of India and Pakistan heavily because of the unproportionately high defence burden on both the countries including the decision to develop the potential for nuclear weapons. A similar consensus-evolving process will have to be undertaken by leaders of public opinion in Kashmir and militant groups. The latter always seem to be waiting in the wings to do worse that pariahise any one willing to start negotiation with "Bharat: Representatives of each of the major militant groups will sit down with leaders of All Parties Hurriyat Conference and other sections of opinion to arrive at a consensus eventually inviting Kashmiri migrants to a dialogue with them.

These two processes of dialogue within Indian Government and public opinion and that in Jammu and Kashmir, could subsequently converge in Srinagar.

On the basis of the guidelines recommended India could invite the Kashmiri side to a final dialogue on actual terms and conditions. In the final round the Governments of India and Pakistan and the two Kashmiri sides could determine the kind and degree of linkages across the LAC, providing necessary guarantee and seeking adequate safeguards regarding security.

Courtesy: Hindustan Times, January 2, 1994

THE KASHMIR IMBROGLIO: WHAT IS TO BE DONE?

Arun Ghosh

.....the Thrasymachus, in Plato's Republic, proclaims to the world that "might is right, and justice merely the interest of the stronger; the "unjust" is lord over the truly simple and just, and the "just" is always loser by comparison". He is careful to add that he is "speaking of injustice on a large scale"; he doubts the advisability of being unjust if one cannot do it wholesale.

(Will Durant: The Pleasures of Philosophy).

We have, in the past two millennia, come a long way in the evolution of philosophy, but in practice, in our day-to-day life, is our ethics any better? Have we made any real progress in our philosophy?

That might is right is now sanctified even by the United Nations Security Council when it comes to intervention in Iraq, or non-intervention in Bosnia, or fatigue in Somalia, or any (expendable) developing country for that matter. The bombardment— literally — of the Russian Parliament in Moscow is universally acclaimed by the West, in the interest of "democracy" (of all things). That injustice on a large scale is passe is something to which we have all become used; we are now insensitive to exploitation and human suffering. Indeed, we are all a part of the system which perpetrates injustices; we are on the wrong side of the fence, we — the intellectuals — are the "unjust". That also goes today for the Indian society, no less than for the so-called developed Western societies.

And now, William Jefferson Clinton has suddenly realized that after the complete — and almost irreversible — destruction of the USSR, the

American interest lies in destroying, or at least in destabilizing China and India, China, it so happens, is in a position to thumb its nose at Ckubtib, but can India? It was only the other day that the USA was questioning China's sale of rockets to Pakistan. Pakistan's nuclear programme was also under attack. But now suddenly the equations appear to have changed. Presumably, there is an understanding between Ms Bhutto and the CIA. The focus of attention has shifted to India; and questions that did not arise all these years have suddenly surfaced. After all, India today is a supplicant country. Aid to India can be cut off on the ground of violation of civil rights in Kashmir. If, in the process, India can be dis-stabilised, why, such an opportunity should never be missed:

Let us think over the issues clearly, dispassionately. We must do what is right, what we should have done all along. Since 1953, we have supported corrupt politicians and bureaucrats in the Jammu and Kashmir. These people have fattened themselves while the people of Jammu and Kashmir have become poorer and poorer.

Successive governments in Pakistan, unable to contain internal protest, have also found the issue of Kashmir a convenient one with which to divert the attention of the people of Pakistan away from their internal problems to an external issue. Kashmir has been quite convenient to inept governments in both India and Pakistan.



But the past is past. What is to be done today? There is no question that the recent happenings at Hazratbal Mosque, and the subsequent firing at Bijbehara are inexcusable. May be the "intelligence" information is that one or two serving officers of the Pakistan army are holed inside the mosque with the militants. May be, there are some people from across the border also holed in inside the mosque. A simple solution would have been to allow them to sneak out of the mosque, leaving their arms behind them. That could and would have been easy. But no, we must insist on the militants surrendering themselves. What point are we trying to prove? That Pakistan is directly involved? Pakistan can always deny that these serving officers were officially backed; after all, they could have gone on leave and gone over out of their own volition. Is proving a point that important?

So, what precisely is the solution? Way back in 1988-89, Mohammad Shafi, a far-sighted statesman, got an Act passed by the Jammu and Kashmir legislature. The Act, called the Jammu and Kashmir Panchayati Raj Act, happens to be one of the most progressive of Panchayati legislations in the whole of India. It seeks to devolve local authority to the local communities. It seeks to empower the people. It seeks to confer even judicial powers to "Lok Adalats" on simple disputes which are best settled locally. It incorporates provisions which ought to inform the pattern of governance (and of promoting local development programme) throughout India, which ought to be universalized.

What should be done is to invoke the said Act of the Jammu and Kashmir Legislature — which has supreme powers under the Constitution — and order widespread local elections to the panchayats; and after the elections, to handover the authority and the requisite finances, to the locally elected representatives of the people of Jammu and Kashmir. We have by now ample evidence of the capacity of both wooden-headed administrators and generals, as well as politicians who have run Jammu and Kashmir 1953 and 1988. Let us, for a change, put our faith in the good sense of the people in Jammu and Kashmir, and allow them to run their own internal (and strictly local) problems for five years.

Having done this, we should then enter into dialogue with all sections of the people of Jammu and Kashmir. We should strictly in terms of our own convictions, objectives and philosophy, let the will of the people determine larger issues regarding what geo-political framework they would like to have in the subcontinent of what was once the Indian empire. Such a move may also help us to normalize relations with Pakistan, and successfully foil the CIA's efforts to divide the people of India and Pakistan. What power can we not yield in the comity of nations if only we learnt the lesson of amity and of peace? Forget the power, which must come to the large populace of this vast subcontinent. One should think of the economic development which the people of this subcontinent can have only if we: (a) cooperate with each other, and (b) decentralize our economies and allow the people to fashion their own development, in accordance with the specific needs of each area. Indeed, think of the resources, currently wasted in a competitive arms race, if only we can find a peaceful solution to this long standing problem.

But this may not be to the liking of the vested interests which stand to gain from a continuation of the conflict, both within the country and outside. There are certain to be many objections; from the armed services, from the brokers of arms dealers abroad (who control immense resources for bribing and corrupting those in power so as to get decisions made), from imperialist countries who are interested in seeing that no such solutions are found. We should not under-rate their influence. Money imparts power. Enormous money lends enormous power. But, if we can carry the people with us, no power of money can stop us.

These are the crucial issues today. These are the issues that need to be debated across the country. We must find a solution which is in keeping with the philosophy and traditions of India, far removed from the perpetuation of "organized" and large -scale in justice.

Courtesy: Mainstream, November 6, 1993
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KASHMIR: THE FOURTH OPTION

B. G. Verghese

The situation in Jammu and Kashmir is ripe for a new initiative — a political spring. The shame and tragedy of the Sopore incident in January notwithstanding the ground situation favours a bold departure. Despite of continuing ability of the militants to strike, militancy has been held and the security forces are clearly on top. The battle of bullets is turning. Alienation against India remains widespread in the Valley. The battle of hearts and minds remains to be won.

But even here there have been signs of qualitative change. Militancy has got mired in a blind and bloody alley. This is not the road to success as India will not just go away. There is disenchantment with the depredations and adventurism of the militants. And there is disillusionment with Pakistan among these groups.

Mismanagement

There can be no military solution in Kashmir. This is not a police problem. The causative factors are clearly political, basically internal mismanagement, though aggravated by external influences. The security forces obviously have a fire-fighting role but beyond that can only restore the stage for dialogue. This they have more or less done. President's rule has been further extended until September before which the political process must be set in motion. This is not merely tactical necessity but a basic democratic commitment.

Mr. Narsashimi Rao has said that elections will be held as soon as conditions permit a credible poll, free of military threats and pressure. Such elections must also be seen to be totally fair by the people of Jammu and

Kashmir as much as by international opinion. Let whomsoever so wills, watch the process. Mr. Rajesh Pilot has affirmed that militant organizations may participate in the polls within the framework of the Constitution and, in the event of victory, can form the government. The phrase "within the framework of the Constitution" requires clarification. It implies adherence to peaceful and constitutional processes, in opposition to resort to violence in seeking political change or resolution of issues. This is what happened when erstwhile insurgents returned to the fold in Nagaland, Mizoram and Tripora. Constitutional amendment is part of the constitutional frame.

If a credible election without fear of gun or a sullen boycott is postulated, it may take something beyond the important modalities spelt out by the Prime minister and Mr. Pilot to establish the necessary preconditions. Certainly, the Pandit and Muslim migrants must be enabled to return to their homes and livelihood in honour and security. Perhaps there could be a hint of principles of a possible settlement, internal and external. The restoration of a civil and human face to government is a necessary though insufficient condition for a final resolution of the prickly Kashmir question. What more then?

India's position is that Jammu and Kashmir is a bilateral issue to be finally settled with Pakistan in accordance with the Simla Agreement. Pakistan has sought to resurrect the old UN Resolution of August 14, 1948 and January 5, 1949 which prescribed a sequential process culminating in a plebiscite. That culmination was never realized when it might have been and the Indian and Pakistani perceptions on why this was so remain irreconcilable. however, those resolutions are dead.

Jammu and Kashmir remains partitioned after 45 years. And Pakistan remains a party to the Kashmir dispute. It is as unrealistic for India to imagine that any government in Pakistan can or will walk away from Kashmir as it is for anybody in Pakistan to believe that India can be tired out by attrition or ejected from the State. Yet events in Kashmir have been a completely new turn since 1990. This is obviously so in the Valley, while the militancy has had repercussions in Jammu and Ladakh (which have a totally different ethos). Pakistan's advocacy of democracy, self-determination and human rights in Kashmir has not let "Azad" Kashmir, Gilgit and the Northern Areas untouched. There are signs of ferment there too.

A new situation has therefore arisen on both sides of the Line of Control. The people of the State have become parties to the dispute. The population includes Kashmiri Muslims and Kashmiri Pandits, Dogras, Ladakhis, Baltis, Dardis, Gujars, Punjabis, Pathans, Gilgitis. All these people need to be consulted and accommodated in keeping with their aspirations.

Unsatisfactory

The status quo in Jammu and Kashmir is clearly unsatisfactory. A solution lies not in a restoration, but in a new design. That option is therefore ruled out. The second option of detaching part of all of Jammu and Kashmir from India, whether by war, separatist violence or (religious) self-determination, and stitching this on to Pakistan is equally unviable. Independence, either for part or all of Jammu and Kashmir, is equally unrealistic. Although an artificial product of war, the line of control does follow, is equally unviable. Independence, either for part or all of Jammu and Kashmir, the Line of Control does follow a rough and ready ethno-cultural divide in some measure. Further, "self-determination" within the two parts of Jammu and Kashmir could result in the Balkanistan of a mosaic put together by history, with every new "self-determination" minority being assailed for a newly-created majoritarianism which lesser minorities refuse to accept.

Such an unravelling would be a recipe for strife, insecurity and destabilization of the region. Encouraging new religious divides would have repercussions in India and Pakistan and even in Bangladesh, as the unfortunate aftermath of Ayodhya sadly revealed. Undoing the sub-continent by seeking to promote unviable solution s in Jammu and Kashmir would be folly. Developments in Yugoslavia and CIS are cautionary. India and Pakistan, like much of the third World, are still in the process of nation-building.

Autonomy

What then could be a solution? There is a fourth option. This would leave existing sovereignties intact but confer a large measure of autonomy (self-determination, "azadi") on either side of Jammu and Kashmir through negotiations between the two metropolitan states and the Jammu and Kashmir units on either side. Thus India would need to negotiate an acceptable settlement with its part of Jammu & Kashmir and Pakistan with "Azad" Kashmir, Gilgit and the Northern Areas. On Kashmir, Jammu and Ladakh,

with regional autonomy for each and further devolution to sub-units through any agreed variant of panchayati raj or other constitutional mechanisms which may be devised.

India's Jammu and Kashmir as a whole could be conferred a great deal of autonomy, even going back to the three original heads of accession, namely, foreign affairs, defence and communications, together with any other subjects mutually agreed upon. The degree of central devolution could even vary as between Jammu, Ladakh and Kashmir if that is the wish of the people, with Jammu and Ladakh (or parts thereof) choosing to retain fewer transferred subjects from Delhi than Kashmir. Certain entrenched clauses may be written into the new arrangement and upper house of legislature empowered to monitor them. Pakistan would need to work out similar arrangements on its side. But this would be its concern, not India's.

Pursuant to this new internal dispensation on either side, the Line of Control could become a dejure international boundary with suitable adjustments in order to secure a rational border. But this should be a porous or soft border permitting movement, trade and cultural exchange, economic cooperation and currency transactions up to given limits without all the rigorous procedures and protocols now obtaining. This would stimulate development and tourism and unite divided families and peoples on both sides.

Such a regime would create areas of common interest and open up fresh opportunities. It would provide justification for some kind of overarching structure, may be an informal council, meeting periodically on either side to consider matters of common concern such as trade, exchange, economic cooperation, tourism, the environment, harnessing the potential of the Indus system and trans-border crime.

The logic of such an understanding would imply disengagement along the present LOC and demilitarization through agreed force reduction in Jammu and Kashmir, with the two armies facing outwards rather than confronting one another. There could in due course even be agreement on joint defence of Jammu and Kashmir, whether in whole or part.

Such a multi-tier arrangement on each side and between the two parts of Jammu and Kashmir and between India and Pakistan might appear unduly complicated at first sight. The seeming complexity stems from unfamiliarity and a departure from fixed grooves of conventional thinking. The

Fourth Option out-lined here essentially aims to set out certain principles and values rather than a finished solution.

Co-confederalism between two closely interacting autonomous units lodged within two distinct sovereignties, yet guaranteed by both, would enable each to toast its favourite slogan: "azadi", "self-determination", integral part of India". It would be a victory for all and a defeat for none. India and Pakistan could register this accord with United Nations and Kashmir could for good measure become home to any one or more UN or other international agencies.

Confederal

It would be unwise prematurely to forecast a story book ending. But movement towards living happily ever after could begin if all concerned were to walk the way of the Fourth Option: Co-confederalism. Nehru mandated Sheikh Abdullah to talk of a confederal solution with Ayub in 1964. The BJP has spelt out the vision of an Indo-Pakistan confederation (not Akhand Bharat). This is the promise of SAARC too — ultimately, and on a wider scale.

The Ayodhya fallout has brought home recognition that partition did not yield a final settlement. It is time for India, Pakistan and Bangladesh to move towards a new relationship. Too many years have been wasted. The Fourth Option can begin a process of larger healing.

Courtesy: The Hindustan Times, March 25, 1993.

THE KASHMIR COBWEB: CAN IT BE RESOLVED?

*Pervaiz Iqbal Cheema**

The simplistic answer to the question posed in the title is yes, provided all the involved parties opt for a realistic approach. Like all other disputes, the complex Kashmir dispute is the product of conflicting policy pursuits and clashing interests. The passage of time has added new dimensions to the original issue. Shifting the focus from the real issue to escalatory processes and contributory factors deemed somewhat insignificant in the early phases of the dispute.

Historical Roots

The origin of the Kashmir dispute lies in the hasty and surgical partition of Pakistan from India and British viceroy Louis Mountbatten's role in securing accession of most of the states to India, disregarding when necessary, the principles he himself had laid down governing the processes of partition. Technically the fundamental principle of accession was that power to accede to one or the other of the new dominions was vested in the personal decision of the ruler. But it was also recognized that the decision of the ruler should be qualified by geographical contiguity to one of the dominion and dominant composition of population. India insisted upon retention of Junagadh, Hyderabad, and Jodhpur because of the Hindu majority population in these states, despite the fact that rulers of Junagadh and Jodhpur for Pakistan and the ruler of Hyderabad preferred independent status. By this criterion, Kashmir should have automatically joined Pakistan. But in the case of Kashmir India applied political pressures on the Maharaja to join India and once the Maharaja had signed the instrument of accession. India relegated the majority principles to a secondary position and pushed the legalistic approach to the forefront.

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Following the accession, the leaders of India, including ite first governor general, Mountbatten, and first Prime Minister, Jawaharlal Nehru, repeatedly pledged that the question of Kashmir would be decided in accordance with the wishes of the Kashmiris. The pledge was incorporated in the UN resolutions of August 13, 1948, and January 4, 1949, which both India and Pakistan accepted, that the question of accession would be decided through the democratic method of a free and impartial plebiscite. The plebiscite was never held and the Indian pledge was never honoured. Pakistan considers the India pledge to be as binding today as it was when first voluntarily made in 1947. India usually justifies its refusal on the basis of various new elements and new developments that have taken place during the last forty-three years. In addition, India also stresses that conditions deemed necessary for the peaceful conduct of the promised plebiscite were never fulfilled. The current Indian argument is that the Simla Accord which was signed after the 1971 India Pakistan war - and more specifically, the principle of bilateralism, which is contained in the agreement - should be the basis of solving Kashmir dispute. Pakistan insists that a plebiscite be held under UN auspices.

What seems intriguing is that both India and Kashmir even after the passage of forty-three years and the advent of so many new developments continue to adhere strictly to their respective original view-points. For Pakistan, Kashmir is a symbol of Indian duplicity and high-handedness and must be subjected to an independently supervised plebiscite with two choices, to join India or to join Pakistan. For India, the dispute no longer exist, and it regards Kashmir as an integral part of India. Both not only seem oblivious to the existing realities, but also tend to ignore the momentous developments that have given new impetus to Kashmiri nationalism. Although many Kashmiri sources tend to emphasize that their struggle for freedom started long before partition of Indian subcontinent, the Kashmiri desire for independence really manifested itself in an articulate manner only during the last two years. For Kashmiris now, the holding of a plebiscite with only two options is somewhat unacceptable.

Kashmiri Nationalism

The Kashmiris now assert that the fate of Kashmir cannot be decided without their participation in any eventual settlement of the dispute. The year 1990 witnessed the Kashmiris resolve to exercise their right of self-determination. While a few Indians recognized the agony of the Kashmiris

and accorded sympathy to their cause, the official response of the Indian Government was harsh and brutal. The Indian Government declared that the Kashmir issue is an internal problem and under no circumstances will it allow Kashmir to secede. The Kashmiris participating in the liberation movement on the other hand, view Kashmir as a colony of India.

A convincing case can be made for each of the parties directly involved in the Kashmir dispute (the Kashmiris, Pakistanis, and the Indians), and an acceptable solution may not be easy to find. None of the involved parties, so far, has suggested a realistic and feasible solution. Instead, all of them have striven to secure ideal solutions. For the Kashmiris, the ideal situation would be an independent status for the entire state of Jammu and Kashmir. The leading and most popular group, the Kashmiri JKLF (Jammu and Kashmir Liberation Front), vociferously stresses this goal. A more realistic option is to work for an independent Vale of Kashmir. For Pakistan, the ideal solution is for a plebiscite to be held in the entire state under the auspices of the United Nations. The practical solution is to accept the partition of the state, either on the basis of communal populations or along the River Chenab. For India, the ideal situation is a complete integration of the entire state. A more realistic option is to accept partition, preferably along the existing UN cease-fire line, which was renamed the Line of Control, after the 1971 India-Pakistan war.

Reasonable Solution

Given the existing ideal and realistic solutions, coupled with the operative state of the relationship between India and Pakistan and the incumbent complex situation in the Vale of Kashmir, the most feasible solution seems to be a combination of partition, limited plebiscite, and UN trusteeship. In view of their overwhelming Muslim population, Azad Kashmir and Baltistan should stay with Pakistan, while Jammu and Ladakh should go to India. The Kashmir valley should be put under UN control for a short while to enable it to hold a plebiscite with three options: independent status, joining Pakistan, or remaining with India. For the Kashmiris, this solution provides partial satisfaction: at least the Kashmiris in the valley would be able to exercise their right of self-determination. For the Pakistanis such a solution would also provide limited satisfaction, in the sense that their stance has not altogether been discarded. To strive for a plebiscite in the entire state, with the hope that the outcome would favour Pakistan, does not seem realistic. For one thing India will never agree to this because it would lose

face and also lose the plebiscite, the current Kashmir movement in the valley clearly indicates the preference of the Kashmiris. For India, the Kashmir dispute not only has become a constant headache, as the North-West Frontier Province was for the British, but also is a symbol and continuous reminder of India's broken pledges and promises. More recently, Indian repression in the Kashmir valley has become a source of embarrassment for the Indians.

The above mentioned solution not only provides a way out but offers a chance for a lasting peace in South Asia. Resolution of the Kashmir dispute through negotiation would transform the tarnished image of a belligerent India into that of a peace-loving country and may even help, in resolving its disputes with other estranged regional neighbours. The argument that a commitment to the above mentioned proposal would open a Pandora's box as far as the Indian domestic situation concerned, is not logical and rational. Not only are the Indians and the world are very familiar with the dispute that originated in 1947, but the UN Security Council has already voted 10 to 0 in favour of a resolution that in effect declared the accession of Kashmir to India illegal without an internationally supervised plebiscite. Besides, in view of the current situation in both Kashmir and Punjabi Suba, it is not far fetched to assume that the Sikhs and the Kashmiris could join hands and work collectively towards their professed objectives. The repercussions of such a development not only would certainly be felt in other parts of India, but may also lead to heavier internal and external tolls.

Less Attractive Alternative

An alternative feasible solution that could attract attention in both India and Pakistan would be partition of the state. The existing defacto partition is unlikely to be accepted by the Pakistanis. The Indians may have to offer the districts of Baramulla and Sopore inclusive of the Wullar Lake to make the partition attractive to Pakistanis. India currently occupies about 65 percent of the state's territory. So secession of one or two districts could invoke strong sympathetic responses among the Pakistanis. The only major snag in this solution is that its does not satisfy the aspirations of the Kashmiris more specifically, the Kashmiris in the valley. A sizable number of Azad Kashmiris may be inclined to entertain a partition now, but with the rapidly increasing popularity and continuous strengthening of the Kashmiri liberation movement, the ideal of a liberated Kashmir is likely to engulf the entire Kashmiri population, irrespective of current abode either in India and Pakistan

Devising a solution to a problem that started in 1947 is not an easy task. The last forty-three years have witnessed innumerable developments of far-reaching significance in and around the region. Pakistan was dismembered; Iran's Shah was replaced by the revolutionary Khomeini regime; the Soviet invaded Afghanistan and then nine years later decided to withdraw; Iran and Iraq fought a long, indecisive war; Sri Lanka is confronting a subversive movement; and most recently, Iraq forcibly occupied Kuwait, precipitating a major crisis in the Persian Gulf. These are just a few of the developments that have appeared in an around the South Asia region during the last twenty years. With the emerging realities and the fact that no tangible solution has been offered during the last twenty years, the above suggested solutions are attempts to initiate a dialogue among the involved parties.

If there is to be peace in South Asia, the parties must recognize that the Kashmir dispute has to be resolved in one way or another. Undoubtedly, the key to resolution of the Kashmir dispute lies with India. While geography and population have made India the biggest country in the region, the blessings and support of its South Asian neighbours could made it a great India. Such support would inevitably be forth coming provided India secures negotiated resolutions of its disputes with its neighbours. Undoubtedly, the disentanglement from the Kashmir cob-web could turn out to be the single most important development.

Courtesy: Swords and Ploughshares,
Journal of the University of Illinois, USA
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NEW CONCEPT EMERGES

Bhabani Sen Gupta

Secret is that secret does. There was nothing secret about the mid-January four-day discussion organized in Washington DC on Kashmir under the auspices of the US Institute of Peace (USIP). Participants had been told at the outset that the meeting was being held at the suggestion of the Department of States and that it would not be open to the mass media. The objective was not to score a "resolution" of the Kashmir issue, but to brainstorm a group of people invited from India and Pakistan and the United States for, first, a comprehensive analytical review of the Kashmir issue in the context of India-Pakistan relations and, secondly, and simultaneously, to bring out a basketful of idea that may help resolve the problem.

The USIP is autonomous institution set up by an Act of the Congress and is part of the Federal Government. The convener of the dialogue was Robert Oakley, former US ambassador to Pakistan. But he was sent to Somalia and his place was taken by the institute's president, Ambassador Sam Lewis, who had since been appointed to head the State Department's Policy Planning Council under the Clinton Administration. It can therefore be assumed that the output of the dialogue will be an input in whatever policy the Clinton Administration formulates about Kashmir.

I must hasten to add that neither Kashmir nor India-Pakistan relations are high on the agenda of the Clinton Administration. America's chief concern in South Asia is that no war breaks out between Pakistan and India and that both countries' nuclear capability is frozen in order to prevent nuclear proliferation in the region.

Non-Officials

Six Indians, eight Pakistanis and seven Americans took part in the dialogue. All of them were non-officials who, however, were believed to have some degree of influence in their respective countries' foreign policy decision-making. The team from Pakistan included a retired Air Marshal, a retired General, a former Foreign Secretary who was also a long-time ambassador to India, a young articulate member of the Legislative Assembly of the Pakistan part of Kashmir, a former Adviser to Zulfikar Ali Bhutto, a leading journalist and the President of the Pakistan Human Rights Commission. The Indian team had a former foreign secretary known for his relatively liberal views on India-Pakistan relations, a former Lt. General, a noted lawyer political-analyst, a retired noted editor who is now in a academic incarnation, an academic who is also a newspaper columnist and a Kashmiri who lives in Srinagar, was once a member of Parliament who has often changed his political colour and is now believed to have connections with the JKLF segment of the militants.

The USIP team was made up of chairman Sam Lewis, a former under-secretary of state in the Kennedy-Johnson administration who acted as an efficient moderator, a former member of the foreign service who is now associated with a relatively small foundation, a member of the US delegation to the UN who was on temporary leave, and the editor of Asian Survey together with a senior associate of the Carnegie Foundation for International Peace and Disarmament who not long ago headed the Time magazine news bureau in Delhi.

Distinct Identity

The two highest ranking retired military officers from Pakistan both of whom were Kashmiri by birth could hardly speak genuinely for the new generation of Kashmiris on both sides of the line of control. On the other hand, the two other men from Kashmir, one each from either side of the LOC and both relatively young and articulate, spoke the opaque language of the new situation that has developed in Kashmir, pushing the "People of Kashmir" to the frontline as an essential third party to a settlement of the problem.

The "third party" concept took shape in Pakistan only in the last year by a "third party" official Pakistan does not mean Kashmiris in their own

part of the state. If there was a single factor which became quite clear at the dialogue it is that Kashmiris on both sides of the LOC now want a political assertion of their distinct and separate identity. There is no open struggle for independence in "Azad Kashmir", while the Northern Territories are fully integrated as part of Pakistan. (Recall the late General Zia's declaration that these territories which include the Gilgit region and the Silk Route that connects Pakistan to China, "might have once been part of Kashmir but now they are part of Pakistan".

The growth of a real azadi demand in POK adds an entirely new dimension to the Kashmir issue. The POK legislator made it clear that Kashmiris did not wish to remain as part of Pakistan and he included the people of the Northern Territories also. In my view, which may and perhaps does differ from the views of other participants in the dialogue including those from India, the dialogue's significant contribution to the Kashmir issue is the crystallization of a concept that Kashmiris on both sides of LOC want a state of their own, a united state of Jammu and Kashmir, ending the partition that resulted from the war of 1948.

How to end of the partition of Kashmir, to create a united state, what would be its nature and its relations with India and Pakistan, this, in my retrospective view of the dialogue, became its preoccupation. The Pakistani team started with demanding a settlement under the Security Council resolutions and urged the United States, "as the only global super-power" to use its good offices to bring about that kind of a settlement. However, these scripts, composed back in Pakistan, fell through as it became clear that there was no international support for restoration of the UN role and that the world consensus, outside a group of Islamic countries, is that internationalization of the Kashmir issue is no longer possible. Since neither Pakistan nor India wants a war and both are determined not to slide into one, Pakistan has no way to take the matter back to the UN. The United States has no intention to intervene; it knows about the great limitations of its role in settling this deeply hardened South Asian conflict. (Some Indian delegates felt that there is no permanent US decision not to intervene; it would depend on developments in and over Kashmir).

Militancy

The dialogue in Washington made it clear that neither Pakistan nor India had even at this time a viable Kashmir policy. Pakistan just cannot get

Kashmir as part of its own political entity. The militants in Kashmir cannot get "independence" except as part of a political settlement with India. Even after three years of gory conflict, the Indian Government has not been able to create a political space in the valley which can be filled with a free and fair poll. Kashmir in this respect is different from Punjab whose population is 48 percent Hindu and where the Congress has traditionally garnered 30 per cent of Sikh votes in almost each election.

The conflict has been costing India Rs. 3 crore a day for security operation alone, and Pakistan Rs. 1 crore a day. Economic, political and opportunity costs make the low intensity conflict and its mutual bleeding tactics enormously expensive for both national economies each caught in hard binds of distress. Still, the feeling in the Indian Home Ministry is that over time it should be possible to start a political dialogue with the JKLF and bring its moderate elements to a new dispensation in Kashmir. No political message is even now being signalled to the militants except vague talk by the Prime Minister at rare occasions that Kashmiris would be given full autonomy within the Indian state. The Home Ministry, however, has no idea how long it would take to win back enough Kashmiris of the valley to open an India-Kashmir political dialogue leading to a settlement.

That of course would be the ideal situation for India, though it will not douse all militancy in the Valley, nor remove the issues as the great barrier to a rapprochement with Pakistan. An alternative concept that emerged at the Washington dialogue should therefore receive Delhi's attention.

Autonomy

The concept is one of a united single state of Jammu and Kashmir which would be neither sovereign nor independent but which would enjoy maximum autonomy in internal affairs and may have power to open economic relations with the outside world. It will not need a foreign policy. Its security could be jointly guaranteed by India and Pakistan either through separate accords or within a comprehensive India-Pakistan-Kashmir settlement. The united Kashmir state would be a secular democracy entity. Its structure might be unitary or confederate.

This concept found support from both the men from Kashmir Valley and the legislator from POK. It was not rejected by any member of the Pakistan team. Support for it came surprisingly even from the executive director

of the Kashmiri American Association.

This is not entirely new concept. A different version of it was suggested by an eminent Pakistani, Dr. Mubasher Hassan, Zulfikar Ali Bhutto's finance minister, some years ago. If worked out, it will be for all real purposes a return to the original terms of accession of Jammu and Kashmir to India with the difference that Pakistan will be an equal partner of its security.

To work this concept out is not going to be easy, however, the tendency in the Indian Government as well as of many political observers will be to look at it with grave suspicion as a Pakistani trap in Islamabad, it will be seen as the loss of control of not only POK but also the Northern Territories. Yes this could be the best solution for it will also resolve the India-Pakistan divide, if we fail, in the reasonably near future, to come to terms with insurgents in the Valley.

Courtesy: The Hindustan Times, February 6, 1993.

KASHMIR - I
A BUNCH OF NEW IDEAS

Pran Chopra

Many new ideas have been published recently in India and Pakistan and USA on the future of the State of Jammu and Kashmir. They have resulted mainly from the pressure of events within the State on both sides of the Line of Control, and anticipation of external pressure upon both countries.

All new thinking is welcome. One cannot have too much of it. But caution is needed on two counts. First, while optimism is a good thing, lack of realism is not. Second, initiative and agreements which are brought about by external pressure do not endure. It is much better to be guided by our own recognition of the real interests of India and Pakistan and the people of the State.

It is in this light that one examines the pros — but also the cons — of some ideas separately suggested by four authors in the past few weeks. I will keep those of a fifth till later in this article for the reason, among others, that they are older. Of the three, Mr. B.G. Verghese has offered the most developed idea, in the Indian Express of July 12. He starts with a suggestive heading, New Mood in Kashmir, and then goes on to say more explicitly that the "tide had turned" because no one now expects that "Azadi.....is round the corner". There is a "sense of betrayal by and disillusionment with Pakistan", and there is now a "reverse alienation", that is from Pakistan and the militants.

Core Ideas

Mr. Verghes's core ideas are five. First, "a soft frontier across an adjusted Line of Control: should become the :international border" between

India and Pakistan within the State, and being soft it should allow for "easy movement and commerce both ways". Second, each of the two parts of the State should negotiate "greater autonomy", respectively, with the Government of India and Pakistan. Their both parts should then be allowed to "federate around the devolved subjects", while each gives "regional autonomy" to its own regions. Fourth, India and Pakistan, respectively, should then "confederate" with its side of the State. The fifth is what would then emerge, "an autonomous Jammu & Kashmir with further regional devolution within an Indo-Pakistan Condominium".

The aims and intentions of the scheme are laudable, but there are some doubts about its practicability. The first doubt is whether the people of the valley of Kashmir, even in their "new mood", are willing to barter any part of their own aspirations, as the quintessential Kashmiris, for the sake of some involved relationships with other regions of the State, be it Jammu on this side or Gilgit on the other. The Kashmiris have no great feelings of kinship with the people across of Line of Control. Mr. Verghese quotes an editorial from a Kashmiri newspaper, "Al - Safa", which supports the doubt through its implications. It asks "If Kashmiris have to remain slaves, then why not with India, where we are enjoying a lot of facilities?" A question well worth exploring may be what mixture of "facilities" and "azadi" would most meet the Kashmiris' "own aspiration?"

Second Doubt

The second doubt is whether Pakistan would accept any "solution" which rests upon such a division of the State as would leave the whole of the valley with India. Would it do so even under external pressure, sincerely and for good? The third doubt goes higher. Do India and Pakistan have such relations now, or will have after external pressure has forced them to "solve" the problem, that they can successfully work a "condominium" over the State?

The second author is Mr. Kuldip Nayar ("Kashmir: a Way Out" The Hindustan Times, July 15, 1991). He urges talks between India and Pakistan, rejects plebiscite, and notes that the Jammu and Kashmir Liberation Front demands independence for a reunified State. He rejects independence for tiny country as impracticable. And so the author comes to what he describes as a "Trieste type agreement", referring to the agreement between Italy and Yugoslavia signed in 1954, about the disputed territory of Trieste.

Following that model, he recommends that the present Line of Control should become the international border. "But they should soften it in the Valley". "Bonafide Kashmiris" could traverse it at will with "Identity Cards" but "Indians" and "Pakistanis" wanting to cross it would have to get visas from the governments of Pakistan and India, respectively.

Mr. Nayar reports that according to some " top advisors of Benazir Bhutto" who met him when he was the Indian High Commissioner in London, "a Trieste type solution was the unwritten part of the Simla Agreement", and Zulfikar Ali Bhutto had told him that he was also "thinking partly of Trieste". Going forward from this "Trieste type" status, Mr. Nayar says both "India and Pakistan will be able to integrate permanently the Kashmir territory on their side".

Barring that one modification about visas, Mr. Nayar's ideas are heir to the same doubts as Mr. Verghese's. Would Pakistan accept partition of the State? And would the Kashmiris accept, or would it be fair to expect them to accept, "permanent integration" of the valley with India as the answer to their aspirations, in exchange for the compensation that they would be able to travel up to Gilgit?

The third author is an eminent Pakistani, Dr. Mubashir Hassan, once a Finance Minister in the Cabinet of Mr. Zulfikar Ali Bhutto, and now a source of much independent thinking in that country. In an article he wrote in the Pakistani newspaper, "The Nation", on June 15, he holds that "India has lost the battle for the hearts and minds of Kashmiris.....the writ of the Indian Government has ceased to run" there, and the situation is as "irreversible" as in "Vietnam and Algeria". Sooner rather than later India will attack Pakistan in the hope of "solving" the problem that way, the Doctor says, but the attack will be "not only fruitless but counter productive", both for India and for "those Pakistanis who believe that the success of the Kashmiris against India will make Kashmir a part of Pakistan".

Appeal

Therefore, he appeals to both countries to let "the people of the former State of Jammu and Kashmir put into practice their right of self-determination" and have "freedom of social, commercial and cultural relations with both India and Pakistan" with their "own currency and membership of the United Nations". Pakistan and India should "agree among themselves for

the joint Defence Council of Pakistan, India and Kashmir, against aggression by a third power: in violation of "their existing position on the border". After "Pakistan and India have agreed among themselves, the solution may be presented to the representative of the people of Kashmir".

Dr. Mubashir Hasan's analogies (with Vietnam and Algeria) are selective. His prediction of war is farfetched. His conclusion is excessive. But his scheme has one pro. It proposes an agreement which Pakistan is likely to accept. However, it also has a corresponding con that India may not accept it. It also has another partial pro, but only partial. There is more room in his scheme for "the representative of the people of Kashmir". But the pro is partial because it does not discuss two key questions.

How does one determine who are "the representatives of the people of Kashmir?" And why limit their choice to what "Pakistan and India have agreed among themselves?" Why not leave them free to debate with their people any choices they wish, and "present" the conclusions to India and Pakistan?

Two Questions

The same two questions concern the fourth author, Professor Pervaiz Iqbal Cheema, Head of the Department of International Relations at Quaid-i-Azam University, Islamabad. In a journal of the University of Illinois, "Swords and Plough-shares", he proposes that "Azad" Kashmir and Baltistan should remain with Pakistan, Jammu and Ladakh with India, and the valley should be "put under UN control for a short while", and later given a plebiscite with three options: India, Pakistan or independence. He also proposes an alternative: Partition, with India giving to Pakistan "the districts of Baramulla and Sopore, inclusive of Wullar Lake, to make the partition attractive to the Pakistanis".

These same two questions are also at the centre of the views of the fifth person, who of course is myself. My views are older because for the past six months I have not written about this subject. I have not, because during this time I was the convener of an informal, in camera, "Kashmir group", and being so I thought it indiscreet to be expressing my own views in public. Now that group's conclusions (all of them very critical of present policies and practices in Kashmir, and departures from the familiar Indian mind set) have been lodged with the proper authorities, one is free to return

to the subject. I am not free to present these conclusions, That is either for the group to do or the "proper authorities". But I can disclose one encouraging fact.

At various stages the group included some of the best known persons who have held the reins of Kashmir in their hands. Barring only one such person, who believes the battle for the hearts of Kashmiris has been irretrievably lost, all others (numbering fifty at a concluding conference) believe recovery is possible with the right methods, and there was a general consensus about the methods. Many among them were spelt out in substantial detail.

As I said, I am not at liberty to talk about these propositions. All that I am going to say will draw heavily upon many things published by me during a year or so prior to my convening the group.

Courtesy: The Hindustan Times, August 14, 1991.

KASHMIR - II
A PROCESS FOR PEACE

Pran Chopra

The first things to avoid are impatience and despair, as they were, with good results, in Nagaland for example. And the first thing to remember also comes from Nagaland, that the day was not won only through force and armed action. It began to be won when a different process began: the patient exploration of all possibilities in the light of the hard realities of the day.

In the case of Kashmir also, more than formulae thought up by wise and well meaning outsiders, what we need is the start of a process through which, in conditions of freedom and peace, the people themselves may evolve their answers in the light of the realities of the day. The evolution, as the word implies, will be slow and by stages. As such stage succeeds it will pave the way to the next. The ultimate result can turn out to be much bigger than anyone thought possible at the start of the process, bigger than can be brought

about by any a prior formula invented at the start.

Sooner or latter, and the sooner the better, the process will involve a dialogue with Pakistan on the one hand and on the other hand with "the other side" in Kashmir. We must not duck the dialogue nor seem to be doing so. A clear sign must hang outside the door announcing an unconditional invitation to an open ended dialogue with any body who wants one, whatever his views. Only those shun a dialogue who have no case to argue. Once, the dialogue begins the realities will speak, and the grouping towards a way out will start.

There is no suggestion here, none at all, that there should be any compromise with terrorism. But that fight must not defeat itself because of wrong timing or methods, or by missing the opportunities for a change of tactics, or new beginnings. We have missed many such.

Realities

The hardest of all given realities is that there are three parties to the problem, not two: India, Pakistan, and more important than both, the people of the State, which means not only the people of the valley, though they are the worst victims of the present situation and the most entitled to a say, but the people of all the regions of the State, and on both sides of the line of control. A deal between any two of the three which ignores the third will only be an invitation to continuing trouble.

A corollary follows from this. No solution can give full satisfaction to any one of the three parties, because that will obviously mean that it will give no satisfaction to one or both of the other two. Each party must get a share of the satisfaction, which must come close to what it can hope to get, in a realistic view, from its present tactics. Otherwise it will have no incentive for giving them up. Any side which sticks to an unrealistic view will come to grief sooner or later.

What each party helps to evolve each must help to implement. But that assumes a kind of relationship between the three which does not exist at present. Therefore, there must be as much emphasis upon relationships as upon solutions. We could end up in a classic deadlock: a solution cannot be found because there are no supportive relationships, and relationships are un-supportive because there is no solution: But that can be avoided if all

three parties avoid mindless defiance of the compulsions of the situation. This has implications for each side of the triangle formed by the three parties.

First, for the India-Pakistan side. Each country must entirely abandon all hopes, if it has any, of "solving" this problem by using force against the other country. Each suspects the other of covert use of force, and therefore must convince the other of its bona-fides. Perhaps, Pakistan faces a more urgent and harder task in this respect. It is more widely suspected, not only by India but other countries too, such as the United States, of aiding and abetting terrorism against India. It must desist. Or be made to. That would not be imposing a "solution" but unshackling the "process". But India must also set at rest, or be made to, suspicions in Pakistan that it too is promoting trouble in that country. For example in Sindh.

Implication

The second implication for this side of the triangle is that a "solution" of the "Kashmir problem" must not continue to be made, as hitherto, a pre-condition for improvement of relations on any other front. If it is, the classic deadlock referred to above will become a permanent reality, with consequences which neither country can afford. This may sound like a stale reiteration of the Simla Agreement. But then that does happen to be the best document in Indo-Pakistan literature. It spells out the aims of supportive relationship as well the means of attaining them.

The implications for the Pakistan-Kashmir side of the triangle are also crystal clear. The first one is the same as for the first aide of the triangle: Pakistan must stop stocking the fires of terrorism in Kashmir. The "cause" of Pakistan might gain some ground as the imported brand of very well armed terrorism herds frightened Kashmiris into the arms of that small minority which favours accession to Pakistan. But it also stifles that growing opinion in India which believes that if the Kashmiris so ardently wish to end their India connection we should let them. The sight of the hand of Pakistan only hardens the Indian response.

There is another implication for this sound side which is the most crucial for the "process" approach that I am suggesting as against the "formula" approaches examined yesterday. No future dispensation can have any meaning unless the people take a full part in evolving it. But they can do so

only if there is full freedom of debate in Kashmir, and freedom for the people to hear all points of view, support any they wish to, and to press it through "representatives" of their choice meeting as the government of the State. Everyone concerned must help in restoring these freedoms to the State.

In this respect also Pakistan's responsibility is rather greater than India's. However, objectionable the behaviour of the Indian or the State security forces (and some recent studies by completely independent observers show that some of the allegations against these forces are false and malicious, and made for propaganda purposes) they have taken no action against anyone for his political views, but only for such activities as are seen by them, rightly or wrongly, to be illegal.

But the terrorists, particularly those coming in from Pakistan, are known to have killed a number of very prominent Kashmiri political and public figures whose only known crime was that they did not agree either with the aims of these terrorists or terrorism as such. Among them was Maulvi Farooq, the most important religious leader of the Kashmiris, the second most important political figure when Dr. Farooq Abdullah was at his height, and the most important when the doctor waned.

This condition must end, and normal freedoms restored to the people. Only then can they freely debate alternative futures for the State. At present they cannot. One side dare not speak for fear of death. The other side whips up a frenzy, using as its very potent slogans the dead bodies which are always and inevitably thrown up when terrorism invades politics from one and counter terrorism retaliates from the other. But such bouts of frenzy, however "massive", are no substitute for the ways in which people may reliably articulate their considered political preferences.

Far more credible on the other hand were some of the elections held in the State, for example those in 1977 and 1983, which were accepted as fair by even the most bitter critics of New Delhi in the valley. In both elections it was the Congress which was defeated, the traditional platform of the Indian national identity and in power in New Delhi in 1983. In both elections the victor was the National Conference, the historical platform of the separate identity of Kashmir. In 1977, under the presidentship of Sheikh Abdullah, the National Conference defeated not only New Delhi based parties but the main Kashmiri party of Muslim separatism.

Campaign

In 1983, Mrs Indira Gandhi, then the Prime Minister of India, ran a (Hindu) communal campaign against the National Conference, then led by the son of the Sheikh, Dr. Farooq Abdullah. The latter on the other hand outspokenly espoused the accession to India, and won by a handsome margin. In 1987 also, though Dr. Farooq besmirched his clear victory by an overkill through "rigging" in some constituencies, he won on the platform of accession to India against a (Muslim) communal campaign run by the separatist Muslim United Front. One cannot agree that these clear articulations of political preferences by open and legitimate means have been demolished by the mob frenzy being whipped up today in extremely disturbed conditions, with gun totting terrorism ringing the arena quiet must return to the valley, and for long enough, for genuine preferences to emerge against in stable conditions.

As soon as such conditions emerge, India must live up to its responsibilities, which lie on the third side of the triangle, the New Delhi-Srinagar side. India must hold credibly free and fair elections. When a government is formed in the State by authentic representatives of the people, New Delhi must hold frank discussions with it to discover what status, if any, within the Indian Union would be satisfactory to the people of the State, what mix of "azadi" and "facilities" (to quote the edit mentioned yesterday) would satisfy their needs and their aspirations, and if there is no much mix then what the alternatives should be. That is what the evolution of a formula would mean as against the prescribing of one from outside.

The question, of course, is how do we get there. Many things can help. One has been mentioned already. Terrorism must be given up by Pakistan or stamped out by India. But Indian security forces also need to reform their methods.They must continue to hit the terrorists as hard as they can, but avoid the chance killing of innocent people in the process, which only angers and further alienates the people, an effect more harmful than what would follow if a few terrorists escaped because they cannot be chased in hot and angry pursuits into crowded areas, where unintended deaths become unavoidable. In fact India should experiment with withdrawing troops for a while from selected areas of this kind, and going in again only when it is known that the people want them to, having had their fill of terrorists' presence. Such conservation of their effort might also help these forces to concentrate better upon protecting the border, checking mischievous crossing,

and securing essential supplies and logistics.

Resolution

But more important than that, by all possible means, and if necessary by a resolution of parliament, or a collective affirmation by all parties which agree to make it, New Delhi must convince the people of the State that elections for a new government will be held as soon as conditions allow, the result will be honoured, and the new State government will be given more autonomy if it so desires (studies show that there are no legal or constitutional constraints upon restoring more autonomy to the state, and if the negotiations take place with Pakistan on the future dispensation, they will not be conducted behind the State Government's back).

It is not intended to predict what the end product of such a process would be, and much less to prescribe what it should be. But it is possible that one day it may lead to a parallel, even a synchronized stage-by-stage resolution of the "Kashmir problem" and of the larger "Indo-Pakistan problem" of which the former is but a part. Each step in the resolution of one problem will encouraged, and may be encouraged by, a corresponding step taken in respect of the other problem; "softening" of the Line of Control may encourage a synchronized softening of the Indo-Pakistan border. The whole process might so evolve that at last Kashmir does become what geography had meant it to be, a bridge between the two countries rather than a barrier between them, even if it remains split between the two countries, with its two halves held together by some sort of formal ties and many more informal ones. This end product is not very different from that recommended by some of the other authors. But the "process" of reaching it is different, and perhaps better.

Courtesy: The Hindustan Times,August 15, 1991.

A VIEW ON KASHMIR

Dr. Mubashir Hassan*

Students of national liberation struggles, waged in the second, half of the 20th century, have come to believe that India has lost the battle for the hearts and minds of Kashmiris. It has alienated almost the entire population of the valley and the adjoining areas. The writ of the Indian Government has ceased to run in the countryside as well as towns. The situation such as the one obtaining in Kashmir is irreversible. It is akin to that of Vietnam in 1965 and Algeria in 1955.

In the light of the grave situation in Kashmir, it is natural to conclude that just as the United States concocted a rationale to attack North Vietnam and Kampuchea and France to attack Egypt and Tunisia, India sooner rather than later, will convince itself that by attacking Pakistan it will resolve the Kashmir dispute. Another war between India and Pakistan looks inevitable. Just as the American attacks in South East Asia and the French attacks on Egypt and Tunisia had proved costly and fruitless an Indian attack against Pakistan and Azad Kashmir will not only be fruitless but counterproductive from the Indian point of view. So will it be from the point of view of those Pakistanis who believe that the success of Kashmiris against India will make Kashmir a part of Pakistan.

The forces of integration in the Sub-continent have never been as weak as they are today. Conditions in the Indian Punjab and Assam are serious to say to least. Sindh is as bad as Bihar. Even among the stablest of countries the consequences of war in terms of redrawing of the political maps are unpredictable. Another India-Pakistan war might well prove to be the spark to set fire to a dry prairie. In the aftermath of a war, an era of peace

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and progress in the two countries may take half a century or more to dawn. At that point of time, history might well record the leaders of today as blunderers who had refused to learn.

What then can be done to resolve the Kashmir dispute and to avoid another war between India and Pakistan with all its nightmarish consequences? History tells us that many of its great tragedies could have been averted if only the leaders had given a little thought to find out the possible price their decisions in terms of loss of life and property and in terms of misery to which millions and millions of innocent people would be subjected. India could have been partitioned without the loss of a million plus lives. Bangladesh could have come into existence without the humiliation and horror of the military action and an India-Pakistan war. The Sikhs of the world would have been less furious today if the Golden Temple had not been desecrated. Another impending tragedy must be averted. The two countries must not pitch the ships of their state into stormy seas of great ferocity by hurling their armed forces and civilian population into the ravages for a horrendous war, having thousands upon thousands killed, wounded, and maimed at a cost of hundreds of billions which they can ill afford? It is imperative for the leaders of the two countries to resolve the dispute peacefully.

No cost is too great for an amicable settlement. Statesmanship requires that without prejudice to their stated positions, leaders of India and Pakistan need to evolve a solution by which both can share the duty and the responsibility of letting the people of the former state of Jammu and Kashmir put into practice their right of self-determination.

Let the people of this beautiful land of difficult accessibility have the freedoms of social, commercial and cultural relations with both Pakistan and India. Let Kashmir have its own currency and membership of the United Nations. Pakistan and India should also seek to agree among themselves for the joint defence of Kashmir under the direction of a Joint Defence Council of Pakistan, India and Kashmir against aggression by a third power along the lines of their existing position on the border.

After Pakistan and India have agreed among themselves the solution may be presented to the representatives of the people of Kashmir who it should be hoped will readily approve of the arrangement; for they will be achieving the rights and privileges of not one but almost three countries.

Courtesy: The Nation (Pakistan)

Section - I

WHAT'S THE BOTTOM LINE ON KASHMIR IN THE INDO-PAK TALKS?

Tapan K. Bose

After more than two decades, on January 1, 1994, the Foreign Secretaries of India and Pakistan will have a comprehensive discussion on Kashmir. It is clear that dialogue is being held under the shadow of the US pressure. USA pressurized Pakistan to suspend the move to table its resolution on violation of human rights in Kashmir in the UN. One can also see the hand of US in the change of heart in New Delhi's South Block. But the moot question is when the two Foreign Secretaries of India and Pakistan meet, what will they discuss?

India's bottom line is that Kashmir is an integral part of India. Pakistan's non-negotiable position has been that as per the terms of partition of India, Kashmir, a Muslim majority state belongs to Pakistan. Indians will not accept another partition on communal lines. Pakistan is similarly adamant that it can not allow its Muslim brothers to be suppressed by Hindus.

For over forty years, every Indian has been told that Kashmir is an integral part of India. They have been told that the people of Kashmir have voluntarily decided to merge with India and that they were contented. The little difficulty that remained was only on account of the evil intentions of Pakistan and imperialist machinations of the US and Great Britain.

India has been consistent in its position that Kashmiris do not have the right to exercise the so-called third option of "independence". Pakistan's Prime Minister, Benazir Bhutto in a recent interview on possible solutions for Kashmir has categorically refused to discuss the option of independence.

There is no dearth of "hawks" in Pakistan. Pakistan army's obsession with Kashmir goes back to the fifties. In 1951, Pakistan army's hero of the Kashmir war, Major General Akbar Khan was put on trial on charges of conspiracy aimed at overthrowing the government of Pakistan and to mobilize the rank and file on the Kashmir dispute. (The Rawalpindi Conspiracy Case, 1951).

Re-opening of the Kashmir issue is going to be difficult for Pakistan. No government in Pakistan can afford to reopen the accession of Gilgit and Baltistan which every Pakistani considers as an integral part of their country. Pakistan has already acceded territory to China from these areas. From the Karakoram Highway Gilgit has benefitted economically. Surely the citizens of Gilgit are not going to accept a change in their status without protest.

Narasimha Rao's government lacks both the strength and the political will to take a bold initiative on Kashmir. The Rao government has allowed every vexing political problem to drift. The so-called solution of Punjab stands completely exposed today.Two years after the much touched success of Beant Singh's popular government, it is clear, Punjab is a Police State and the all powerful Police Chief Mr. K.P.S. Gill, its real ruler. Even the Supreme Court was forced to comment on the tragic state of lawlessness created by the police force in Punjab.

In Assam the Karbi and Bodo accords have virtually fallen apart. In the North-East ethnic violence between the Nagas and the Kukis has already claimed many lives. The Jarkhand issue which the Prime Minister promised to solve within ten days of the withdrawal of the "Economic Blockade" in April this year is still hanging fire. And Narasimha Rao continues to grope in the dark for a solution of the crisis created by the demolition of the Babri Mosque by the RSS-VHP-BJP-Shiv Sena combine.

The results of the elections in the four states show that the Congress has been unable to recoup its losses in the north. The BJP-VHP-RSS combine may also be feeling chastened but it is more in the nature of a brief reprieve. BJP can be expected to keep up the pressure on the government on Kashmir making the Congress Government too nervous to shift its stand on Kashmir. Under these circumstances, it is a certainty that the "hawks" in the Congress and in the civil and military bureaucracy will gain an upperhand in the much awaited dialogue between India and Pakistan on Kashmir.

The "hawk" in New Delhi's Home Ministry and in the Raj Bhawan of Srinagar have been trying to counter the mounting US pressure on India by projecting the peaceful resolution of the 32 day-old Hazratbal crisis as a great achievement in crisis resolution. To consolidate their "victory" in Hazratbal they have posted contingents of the Border Security Force (BSF) around the shrine on a permanent bunkers, metal detectors have been put up at every entry point. All suggestions that this move is fraught with dangerous consequences have been spurned with Contempt.

The Union Home Minister S.B. Chavan during his visit to Srinagar on November 17, dismissed the All Party Hurriyat Conference of Kashmir as a "Conglomeration of splinter groups set up by Pakistan" and reiterated that Kashmiris were, "not interested in a merger with Pakistan or in independence (Azadi)." Apparently he had arrived at that conclusion on the basis of the discussions in New Delhi with Kashmiris who "count".

The Pioneer on November 27, reported that "taking a cue from the Hazratbal stand-off the Kashmir Administration and the army have laid a quiet siege on Sopore is second largest town of the valley with a population of nearly a hundred thousand.

The Pioneer's New Delhi dateline story appears misleading. It is a well known fact that the plans to lay siege on Sopore, Anantnag and Doda were drawn up in January this year. I have been told by senior officials of Kashmir that General Zaki, the Corps Commander of the army's Kashmir division and Governor Krishna Rao were involved in the finalization of these plans and clearance was requested for use of heavy guns, tanks and if necessary for air strike. I understand that in the formulation of these plans they relied upon the military intelligence rather than involving the IB. As a matter of fact, the Joint Director of IB, Mr. Bhatnagar was never consulted. It seems even the Home Secretary had no knowledge of these plans. Only the Prime Minister's Office was kept fully informed.

I am toid that General Zaki's warning that the Government would have to bear the responsibility for high civilian casualties in such an operation in Sopore, Anantnag and Doda stood in the way of PMO's approval.

General Krishna Rao was quoted in the Pioneer as saying, "We have surrounded the town, and have restricted movement of supplies in and out of there". The Hindustan Times and The Pioneer (November 28) have re-

ported the cordoning of Sopore town by the army and security forces which began on the night of 26th was completed by the 27the morning. Telephones were cut off and media persons were not allowed to visit the besieged town. Governor Krishna Rao said, "Militants dominate parts of the town and their strategy is to use the public as a shield". (The Pioneer, November 27).

During my visit to Sopore in August this year I found militants moving about freely in almost every part of the town. They had easy access to the homes of the town's citizens. Newspapers have reported that about seventy thousand people had come out on the streets of Sopore in defiance of prohibitory orders to attend the funeral of the slain "Afghan" Mujahidin Akbar Bhai on August 11, I saw a large number of people including old men and women paying their respects to the slain Mujahidin. I did not see any signs of coercion in the relationship between the citizens of Sopore and the militants. On the contrary, I felt the relationship was rather cordial.

The siege on Sopore was lifted on November 28 after a day long run battle. The Defence Ministry spokesman said it has been done to prevent heavy civilian casualties. We do not know how many civilians, militants and army personnel were killed during the operation. It shows that the authorities were aware of the popular support for militancy but were willing to risk heavy civilian casualties. Governor Rao is convinced that the backing of the rest of India to pursue these policies in Kashmir.

The question is under these circumstances what can India's Foreign Secretary, J.N. Dixit say to his counterpart in Pakistan that will not be interpreted as bartering away India's sovereignty?

The bilateral dialogue between India and Pakistan therefore, gets narrowed down to working out mechanisms for the finalization of the present line of control in Jammu and Kashmir into the international border with minor changes. In the 1972 Simla Pact Kashmir is described as "disputed territory". Under the pact India and Pakistan agreed to respect the "line of control" until such time as a "final settlement" is reached. Thus Kashmir's division into the Indian and Pakistan zones was recognized. But will it be acceptable to the four million people of the valley? And what about Jammu and Ladakh?

The plain truth is that Kashmir problem can no longer be solved by a dialogue between the representatives of the Governments of India and Paki-

stan only. The people of the state from both sides of the border have to be involved. Pakistan can not easily walk out of its vociferous commitment to the right of self-determination of the people of Kashmir. Neither, can India suppress the aspirations of the people of the valley by "finding new leaders". The status of the Northern Territories which are under Pakistan's control and that of Jammu and Ladakh also must figure in this dialogue. We should not overlook the political aspirations of the people of Jammu and Ladakh who have legitimate grievances against the rule of Srinagar.

While the proposed Indo-Pakistan dialogue slated to begin on January 1, 1994 is welcome, it needs to be pointed out to the leaders of India and Pakistan that they must get ready to involve the representatives of all sections to the people of Jammu and Kashmir in this dialogue at the earliest. It will not be out of place to suggest that as a first step of this dialogue the two governments may decide to remove the ban on the travel of Kashmiris across the line of control to facilities people to people dialogue between the two parts of Kashmir.

Courtesy: Kashmir Times, December 9, 1993

DIALOGUE AND DELUSION
MUST THE SHOW GO ON?

S. D. Muni

Summing up his fifth round of bilateral talks with Pakistan (former) Prime Minister, Nawaz Sharif during the Jakarta Summit of the Non-Aligned Movement, Prime Minister P.V. Narasimha Rao said: "After going into all the details of the setbacks that we came up against, we still feel that we have to continue our efforts, not always expecting immediate or instantaneous success but realizing that immediate results". And the Pakistani Prime Minister said: "We should continue discussing things".

The question arises as to why the two countries should continue to talk at various levels if no positive outcome is expected. They are obviously not guided by the message of the Bhagavad Gita: do your duty unmindful of the results. And both are aware that a resolution of their intricate problems, particularly of the Kashmir question, is not possible due to various political constraints.

The biggest constraint is that both the Prime Ministers are politically weak in their own countries and cannot afford to make significant compromises, without which none of the contentious issues can be resolved. The position of the Pakistani Prime Minister is far more vulnerable and complicated than that of the Indian. Sharif has, in the past months, suffered serious erosion of his support bases within the ruling coalition and also in relation to the Army, a decisive component in Pakistan's political structure. He also does not enjoy the full confidence and favour of President Ghulam Ishaq Khan, a hardliner when it comes to developing normal, cooperative relations with India.

Within the delicate balance of the triangular political forces of Pakistan, relations with India have always been contentious issue which none of

them can resolve alone or with the exclusion of any one of the other two. This is an inherent dilemma of the Pakistani state ever since it come into existence and started consolidating itself. In 1950-51, when the Army appeared amenable to accepting a resolution of the Kashmir problem on the basis of turning the United Nations ceasefire line into the international boundary, the idea was opposed by the political leadership. Subsequently in 1953 when Nehru-Bogra tried to find a political settlement of the Kashmir question, the Army and influential sections of the civil service sabotaged it. Since then, relations with India, particularly over the Kashmir question, an issue in the competitive politics of vested interests in Pakistan, could never gather a viable national consensus around it to enable an amicable settlement through bilateral political negotiations. Currently Pakistan's domestic politics is too unstable for one to expect any positive response.

There are two other specific reasons why Pakistan will not want to have any resolution of Kashmir at this stage. The Pakistani leadership knows that irrespective of the extent of alienation between the Kashmiri Muslims and India, the former would not opt to join Pakistan. Jammu and Kashmir Liberation Front (JKLF) leader Amanullah Kahn has made this clear in a number of recent statements. Pakistan has tried to prop up surrogate Kashmiri militant groups in both parts of Kashmir to counter Amanullah Khan and keep the banner of Kashmir's Pakistan option flying high, but when the chips are down and the opinion of the Kashmir Muslims, including those in the so-called Azad Kashmir, is sought, there is no chance of their opting for Pakistan. Hence, one doubts if Pakistan's insistence of the U.N. resolution and a plebiscite for resolving the issue is anything more than a tactical-diplomatic ploy, necessary for India-bashing and internal political manoeuvring.

The second factor behind Pakistan's reluctance to have any meaningful dialogue with India is the perception that India is in a weak position. The Narasimha Rao Government's political base is weak: the country has serious economic difficulties, and the insurgency in Kashmir is to the advantage of Pakistan where, with limited investment by way of support to the insurgency India can continue to be harassed. Taking advantage of this, Pakistan is making enormous efforts to internationalize the question and in turn project its own strategic significance in any move to ensure peace and stability in South Asia. The Pakistani establishment is concerned about the improvement of strategic relations between India and the United States, and by fuelling the insurgency, it is trying to underline its relevance to the

developments in Indo-U.S. relations. Pakistan's reference to its nuclear capabilities in the context of a possible armed conflict with India on the Kashmir issue is particularly noteworthy. There is no reason, therefore, for Pakistan to get the Kashmir issue resolved.

No one in India has any doubt about Pakistan's real intentions on bilateral issues. And yet the show of dialogue and interaction is being kept up as it serves a number of purposes.

To begin with, it blunts Pakistan's attempts to internationalize Kashmir and project India as an unreasonable, repressive state. A regular dialogue with Pakistan also accommodates international pressures, particularly from the U.S. for bilateral confidence-building in the sub-continent and the resolution of a potentially volatile conflict in Kashmir. The U.S. pressures on India, under the influence of the human rights, non-proliferation and pro-Pakistan lobbies, can even take an ugly turn, particularly after the November presidential elections. There are hints already. A joint American-Russian study on Kashmir has suggested that "Russia and the U.S. could initiate, in the UN Security Council a resolution which would state their concern about the confrontation in Kashmir and appeal for a peaceful solution". If this happens, the Kashmir issue will come on the front-burner of international politics much to the disadvantage of India.

Pakistan, which is going to occupy the Asian seat in the U.N. Security Council from October for two years, may act as a strong catalyst in this respect. It has already launched a campaign to equate the situation of the Kashmir Muslims with that of Muslims in Bosnia. In Jakarta, Nawaz Sharif urged U.N. resolution on Kashmir. The diplomacy of dialogue helps India meet undesirable international pressures.

Besides its diplomatic aspect, the dialogue keeps alive the possibility, howsoever remote, of nudging Pakistan into normalizing bilateral relations in strategically less important areas such as trade, travel, communications and the Siachen conflict. Narasimha Rao has been repeatedly bringing up these issues and this is being done by India at the level of the Foreign Minister and Secretaries. It is possible that the prospects of trade may tempt Nawaz Sharif to move forward in order to cater to his own domestic constituency of merchants and entrepreneurs.

The Indian side is not giving up the hope of the dialogue leading to the emergence of a small package of constructive proposals, first on non-strategic issues and then sensitive issue such as Kashmir. In 1953 and the early 1960s such packages were worked out raising hopes of better bilateral relations, but they could not be implemented due to the inherent dilemma and political dynamics of the Pakistani state.

The dialogue also keeps the Kashmiri militants, in particular those on the Pakistani payroll, guessing as to what would be the fate of their struggle and sacrifices if the two sides agree to evolve a diplomatic way out. The fate of the Pakistani-backed Afghan Mujahidin led by Gulbuddin Hekmatyar will worry them because such groups can always be jettisoned to serve the ever-changing interests of the states concerned. Any formula agreed upon between India and Pakistan on resolving or even relaxing the Kashmir issue would not be to the liking of the militants. This way, the continuation of a dialogue helps India contain, to whatever extent possible, the material support (including training and supply of weapons) from the Pakistani side to the militants. The importance of repeated assertions by the Indian side that Pakistan desist from continuing with such support and the Pakistani denial that it is rendering such support, may be seen. At least, at the propaganda level this is helpful to India in dealing with the ground realities of the Kashmiri insurgency.

The dialogue also keeps alive the possibility of securing Pakistani support in containing such developments as the crossing of the Line of Control by the JKLF or other militant activists from the Pakistani side. Pakistan has a clear interest in doing so. This was evident on two occasions this year and a third one is in the offing with the Kashmir Democratic Alliance leader, Maj. General Hayat Khan's decision to march his group across the Line of Control on October 28. This was specifically discussed between the two Prime Ministers in Jakarta with positive understanding. Such developments, if allowed to go unchanged will constitute a violation of the Simla Agreement and lead to a serious armed conflict between the two countries.

An important aspect of the dialogue is that in spite of the unwillingness on Pakistan's part to seek a negotiated political settlement on Kashmir and other bilateral issues, it continues to participate in the exercise; nay, it even desires the dialogue to continue when there are risks in its termination as happened a couple of months ago. This is because Pakistan also finds the exercise useful in cushioning international pressures, especially from

the U.S. to improve relations with India. Islamabad is aware of the U.S. displeasure over evidence of active Pakistani support to the insurgency in Kashmir. Recently there were reports in the Pakistani press that the U.S. was working out a formula for a "Camp David" between India and Pakistan on Kashmir. The proposed formula may include the demilitarization of Kashmir, both in the Pakistani-occupied area and on the Indian side, and the setting up of a joint commission to monitor peace and normal life in the area. This would certainly embarrass both India and Pakistan. Such a possibility can be averted only if both continue bilateral exchange and talks including at the highest level, and keep looking for ways not only to keep tensions under control but resolve contentious issues.

A critical dimension of the dialogue is the question of nuclear non-proliferation. Notwithstanding their stated positions both want to retain the nuclear option though neither can say so for fear of Western economic sanctions and political pressures. The application by the U.S. of the Pressler Amendment to stop economic assistance and sale of military equipment to Pakistan shows that this fear is not hypothetical. India and Pakistan want to retain the nuclear option largely, but not solely, in the context of their mutual perceptions of insecurity vis-a-vis each other. If the latter was the only concern, they should not have signed the 1988 Agreement, ratified in January, 1992, to ensure non-attack of each other's nuclear facilities.

The heat of international pressures on both the countries, more so after the end of the Cold War, and a growing assertive consensus among the nuclear haves that the membership of the prestigious club be not allowed to expand, are bringing them to a position that they need to work on the areas of common concern in the nuclear field, without, of course, compromising on their respective drives to build the required capabilities. Accordingly, a small but influential body of opinion is emerging in Pakistan which favours a shift away from Western-sponsored proposal such as a nuclear-weapons free South Asia and emphasizes instead, concepts based upon mutual deterrence between India and Pakistan, like a nuclear safe South Asia. The 1988 non-attack agreement may also be seen as the first step in this direction. To pursue this objective subtly and cushion international non-proliferation pressures, India, during the recently-held Foreign Secretary-level talks, had agreed to discuss with Pakistan confidence-building measures in the nuclear field at the bilateral level. This is a definite shift in India's position but may be seen as a calculated response to an increasingly uncomfortable situation. The Foreign and Defence Secretaries of the two countries may do well to

explore with one another if there is any scope for a consensus response to the proposals such as that for a five-power conference.

The Indian Prime Minister has raised another issue in the non-proliferation debate by asking for a revision of the Nuclear Non-Proliferation Treaty and Pakistani side may do well to consider if they see any possibility of a common approach in this regard. Whether the character of Pakistani state and the nature of the internal struggle for power permit such a consideration, remains to be seen.

Courtesy: Frontline, September 9, 1992
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INDIA-PAKISTAN RELATIONS AT A LOW EBB

Arati R. Jerath

The current war of words between India and Pakistan reflects the fierce diplomatic tussle in which the two are locked to get world support for their respective stand on their main bone of contention - Kashmir.

Having failed to stern Islamabad's relentless campaign to internationalize the issue, India has now decided to launch a Counter-offensive in the international community. Hence New Delhi's pre-emptive strike this week by going first to the permanent members of the UN Security Council, the European Community, the SAARC and others with its side of the story.

In this intricate game of one-upmanship, both countries are playing on two major contemporary concerns of the new world order mapped out by western powers - human rights violations and state-sponsord terrorism linked to the spread of Islamic fundamentalism.

Set against the back drop of the movements for independence sweeping the erstwhile Soviet Union and Yugoslavia and the new western interest in the Tibetan cry for freedom Pakistan's determined bid to once again turn the Kashmir dispute into a struggle for self-determination by the Kashmiri people has increased India's vulnerability on the human rights question.

Pakistan's attempts to brand India as a violator of human rights were underscored in a resolution passed by the National Assembly last Thursday which urges the world community to put pressure on India to stop the "massive violations of human rights" in the state. It also calls for a final settlement of the dispute through a UN-sponsored plebiscite in accordance with UN resolutions.

For the past many months, Pakistan's propaganda machinery has been assiduously at work in the Organization of Islamic Countries (OIC) to build up Islamabad's case on Kashmir and last year, it succeeded in pushing through two OIC resolutions condemning India for human rights abuses in the border state. The National Assembly resolution broadens the canvass of operations by appealing to the international community.

India, on the other hand has plunged into an aggressive offensive to put the blame squarely at Islamabad's door for the rising militancy in Kashmir.Repeated assertions by Indian leaders including the Prime Minister,Mr. Narasimha Rao,and carefully prepared dossiers on Pakistani training camps for militants are all geared to cultivate the image of Pakistan as a state which sponsors terrorism. Although it has been left to the BJP leader, Mr. L. K. Advani, to urge the world community to brand Pakistan as a terrorist state and slap sanctions against it as the West is threatening to do against Libya,the Government has also been dropping broad hints on this in meetings with western leaders, both here and abroad.

In the new world order which has decided that Islamic fundamentalism is the new enemy,now that communism has been vanquished.India's attempts to link the Kashmir issue to larger western security concerns have struck a receptive chord.The US has totally reversed its earlier stand and is now on record describing Kashmir as a bilateral dispute to be settled under the 1972 Simla Agreement.The UK has endorsed India's charge of state-sponsored terrorism by Pakistan with evidence of its own .Both the UK and the EC as a whole have told Pakistan several times to desist from encouraging militancy in Kashmir.

However, by appealing to western fears,India has willy nilly internationalized an issue it has been trying to limit to a regional dispute . And here lies New Delhi's dilemma today. For, western fears of an Islamic crescent stretching from Iran to Pakistan and the Central Asian republics are linked to much bigger concern -- nuclear proliferation and an Islamic bomb.

Today, India is under severe pressure from both the US and Europe to enter into some sort of a regional arrangement with Pakistan on the nuclear front. After steadfastly refusing to sign the Nuclear-Proliferation Treaty, New Delhi is now having to rethink its nuclear policy to keep in line with its delicate maneuverings on Kashmir. The US suggestion for a five-power summit to discuss a regional non-proliferation arrangement for the subconti-

nent has been countered by an Indian proposal for a bilateral dialogue on the issue between Washington and New Delhi.

Pakistan has reacted immediately to India's attempts to draw the US into regional security arrangement on an equal partnership basis. In a significant admission last Friday in Washington, the Pakistani Foreign Secretary, Mr. Shahryar Khan, admitted that his country has the capability to assemble one nuclear device. He added meaningfully that Pakistan would be willing to destroy this device provided India did the same and he invited the US to supervise an Indo-Pak arrangement on this.

This was Pakistani diplomacy working overtime, skillfully playing on India's horror of losing its sovereignty - a fear which has never burdened Pakistan. When India's Foreign Secretary, Mr. J. N. Dixit, undertakes his trip to Washington in March to discuss the nuclear question with the US Administration, he will have to carry an answer to the Pakistani proposal.

Despite these pressures, however, India does have the advantage today of being on the right side of the battle the West has chosen to wage against the Islamic world. Quite obviously, none of the Western powers, nor even Russia, falling prey to Islamic fundamentalism. Hence, the growing support for India on its stand on Kashmir.

Courtesy: Indian Express, February 10, 1992

Section - J

AFTER HAZRATBAL

B. G. Verghese

The surrender of the militants who had forcibly occupied the Hazratbal shrine for 31 days is an event of some significance. It could be a landmark. The 'hijacking' of holy places whether at Amritsar, Ayodhya or Srinagar is criminally wrong and plainly sacrilegious. The tendency for political or other aggrieved elements to convert places of worship into sanctuaries, arsenals and fortresses beyond the pale of the law and the Constitution must be put down with a firm hand, everywhere and every time. This message must be well understood.

The cordon at Hazratbal was no "siege" as made out by the gullible and uninformed. Whether or not the locks to the sanctum within which the Holy Relic was kept were tampered with — and the evidence suggests that they were — Hazratbal had assumed the status of a no-go area where militants maintained offices, recently held an exhibition of arms, retreated into and defied the security forces to enter on threat of blowing it up, kept out the lawful keepers of the shrine (the Imam included), set fire to some structures on the perimeter, held a number of devotees, including women and youths, hostage, and refused food when first neighbouring campuses of Kashmir University and the Regional Engineering College and even the Soura Medical Institute, had similarly become militant safe havens. The whole area has been partially cleaned up — a process that must now be completed.

Poor Response

Despite efforts to fan religious emotion, once the populace realized what was afoot, ardour cooled and, barring the first Friday when there was firing in Srinagar and a tragic incident in which considerable number were killed in Bijbehara, the Friday marches saw a steadily diminishing response.

Srinagar, as much the valley, is fearful but resentful of the militants, whatever the degree of alienation against the Indian state. The surrender at Hazratbal is, therefore, a major psychological setback to militancy in the valley.

Notwithstanding the conflicting pulls and pressures on the tactics to be adopted, the peaceful outcome, in contrast to what happened in 1979 in the Grand mosque in Mecca and at Waco in United States, earlier this year, should be illuminating. The Government was wise to permit full media coverage — though it faltered at the end. Transparency helps. A quick inquiry into the Bijbehara episode under the aegis of the newly-constituted National Human Rights Commission, hopefully assisted by a quick magisterial or other on-the spot inquiry would also be reassuring. Those found guilty must be punished. These processes will in turn deflate those trying to score points on the human rights situation in Kashmir at the United Nations. The restraint shown by the security forces and the intervention of the courts in the matter of providing food, medicine and woolens to the hostages, the ill and infirm shows that human rights are not being willfully disregarded as sought to be made out by some who mistakenly or perversely treat aberrant or panic action individuals or small groups as 'policy'.

Unwise Precedent

At the same time, there will be some concern over what might be taken as an unwise precedent established by the courts in ordering food and medicine into the shrine, even if intended only for the hostages, women and children and not for the militants. While the humanitarian objective is laudable, there will be reservations about judicial interventions in the course of police action. Whether and when to allow food and to whom in the course of an ongoing security operation are part of a psychonegotitional process and not issues for judicial determination. There was nothing to prevent the hostages or their captors from coming out, other than fear of the militants gun and their unwillingness to face the law if guilty of any crime.

However, now that Hazratbal is behind us, what remains is an opportunity, to move ahead decisively towards a political settlement, as Mr. S.B. Chavan has stated. Three elements are in the place. First, the Government and Governor have both declared that they desire a political solution to the current problem. To this end, an amnesty, freedom openly to participate in the political process an offer to enter into a dialogue and the right to form a

Government if elected in a free and fair poll have all been guaranteed. Second, the Kul Jamaat-e-Hurriyet has not only come into being but Hazràtbal provided an occasion for a first, even if limited, contact. This could be the starting point for a wider dialogue. The role of the Hurriyet in the Hazratbal episode need not be judged too critically. All concerned groups tend to adopt a public stance which does not necessarily represent their negotiating position. Initial rhetoric excluded. They too have a constituency to carry. The Hurriyet constitutes as credible a body of inter-locators as any available in the valley today. Third. the Prime Minister has communicated to Ms. Benazir Bhutto his desire for frank discussions on all issues, including matters pertaining to Jammu & Kashmir. It is Pakistan that has sought to specify certain conditions. The door for talks should be kept wide open.

One does not need to be too disturbed by recent US pronouncements on J&K. This is not a legal but a political question and there is no hiding ground realities. There is a dispute (though opinion about its nature and extent might vary) and the people of J&K are directly involved. Pakistan has been reminded that the "dispute" covers the entirety of the former princely state of J&K, including what is called Azad Kashmir and the Northern Area and Gilget. The people of J&K also include the people on the Pakistan side of the Line of Control who have their own discontents and aspirations in relation to their current status. Some of this found expression at the recent symposium on J&K sponsored in Brussels by Socialist members of the European Parliament.

Internal Dialogue

The process of dialogue is not less significant than its content vis-a-vis Pakistan as well as internally. Both aspects need to be thought through and public opinion sensitized with regard to the option and implications. As far the internal dialogue is concerned, the wishes and aspirations of people in Jammu and Ladakh and within them are as important as those of all sections of people in the Valley, which cannot exclude the Pundits, most of whom have had to flee Kashmir. The announced commitment to the formation of an autonomous district council for Leh marks a first step towards regional devolution in J&K, a long-standing demand.

The militants in Kashmir have for some months been under considerable pressure from the security forces and Hazratbal has sent out a clear message. This then is the time for a bold initiative. Let the Government

unilaterally declare a truce in the valley except along the LAC and call on the Hurriyat and all other parties to come forward for a dialogue on a credible agenda and a peace process, without preconditions. It would of course reserve the right to deal sternly with any militancy, show of arms, exfiltration and infiltration, intimidation and the like. Simultaneously, civil and administrative fora should be established for the redressal of grievances. The print and electronic media could be creatively associated with these processes.

Pandit Emigres

During this period, representative Pandit emigres should be encouraged to return to the valley to take stock and meet their former friends and neighbours. Similarly, appropriate political processes should be initiated in Jammu and Ladakh provinces. This will enable the Government to test the water and leave it to the militants and their sympathizers to refuse to come forward or violate the truce and explain their conduct to the people.

Mr. Yasin Malik (JKLF) and Mr. Shabir Shah (People's League), should be released and enabled to participate in the internal dialogue alongside notable such as Dr. Karan Singh, Dr. Farooq Abdullah, Mir Qasim, Kushak Bakula and Balraj Puri and others. Talks with Pakistan such as proposed by Mr. Mani Dixit. to Mr. Shahryar Khan, when the two Foreign Secretaries met at CHOGM in Limassol, and internal talks with the people of J&K may initially follow dual tracks. But these will tend to converge later, the timing and modalities of the switching being part of the process and sequencing that will need to be worked out. Elections could precede or follow any appropriate stage of discussions.

Some will urge that the time is not ripe for such an initiative. Others, that the ensuring winter months must be used to mop up militancy. The answer is twofold. The battle for hearts and minds is far more relevant than the battle of bullets. And it is always the right time to do the right thing.

Courtesy: Hindustan Times, 24th Nov. 1993

HAZRATBAL EPISODE
LESSONS FOR FUTURE

Lt.Gen.S.K.Sinha (Retd.)

The marked shift in US policy and the prolonged high tension drama at Hazratbal under-score the need to formulate a well-thought-out and fully coordinated Kashmir policy. Much more is required to be done than merely reiterating that Kashmir is an integral part of India. We do not have a National Security Council to take a coordinated and long term view of our security problems. When problems arise, out reactions are knee jerk and our decisions adhoc.

The brazenly anti-India stance of the US during the Cold War years was understandable. US national interest demand support of Pakistan which was a client state in the containment of the Evil empire and later a front line state against it. With the demise of the USSR, the cold war compulsions also vanished. Thus the Bush Administraton gave up taking of the right of self-determination of the Kashmiris. It suddenly discovered the merits of the Simla Agreement and urged bilateral solution of the Kashmir problem. It also condemned Pakistan's support of militants in Kashmir and threatened to declare her a terrorist state.

The Clinton Administration now wants to put the clock back and provide unabashed support for an old ally. The outrageous remarks of Robin Raphael should not be viewed in isolation nor treated as an individual aberration. It is part of a carefully orchestrated design. John Mallot, on his visit to India last July stated that being the third party to the dispute, the people of Kashmir should be consulted. This is clever ploy for reviving the demand for self-determination.

Robin's Stand

Clinton in his address to the UN General Assembly on September 27, 1993 referred to "the bloody ethnic, religious and civil wars that range from Angola to Caucasus to Kashmir". Picking up the threads from there, Robin Raphael has chosen to dismiss the Simla Agreement as an outmoded one which has achieved nothing. She also stated something which was never before voiced by any responsible American — that the USA did not recognize the Instrument of Accession signed by Maharaja Hari Singh. The implication of this is not only the repudiation of the Indian Independence Act passed by the British Parliament in 1947 but what is more, retracting from earlier US commitment in the UN.

The UN resolution of August 13, 1948, to which the US was a party, called for the complete withdrawal of Pakistan forces from Kashmir, before holding a plebiscite. Very significantly, it did not stipulate such withdrawal of Indian forces, obviously before it recognized the legality of Kashmir's accession to India. This got further confirmed when the cease-fire line was drawn under the aegis of the UN in July 1949.

No Parallel

The US needs to be educated that India can not be treated at par with the warlord in Somalia, the warring ethnic groups in Bosnia or the tin pot Generals in Haiti, against whom US policy has not made much headway. We need not bother about US economic retaliation, as US aid to India is mere $41 million, which are peanuts according to international standards. With a $3 trillion national debt and its economy in the grip of agonizing recession, the USA's capability to provide economic aid is limited. Japan the new economic super power, and the European community are better placed to provide aid. Further, India should explore the possibility of making common cause with China to counter US bullying.

Since the US is an open society, we need to put across to its congress and its people that the threat from Islamic fundamentalism and international terrorism is not confined to Kashmir alone. The entire world community including Muslim states like Egypt and Turkey are threatened by them. There was a link between the explosion at the World Trade Centre in New York and the bomb blast in Bombay. US support for the terrorists forces fomenting disaffection in Kashmir cannot but harm, US long-term interests

and the present world order. All available channels — quiet diplomacy, electronic media, academic interaction, public demonstrations, ministerial pronouncements and so on — should be utilized to convey this message.

Ultimately, the Kashmir problem has to be tackled more on the basis of developments in the valley than any statements issued by US officials in Washington. The month-long drama at Hazratbal has brought out the weaknesses in our Kashmir policy, if we have one. Our approach has oscillated between a hard line and soft line, rather than a judicious mixture of both to crush terrorism and also win the hearts and minds of an alienated people.

No wonder, the situation on the ground started getting steadily worse. After the large killings of civilians at Sopore in January, that area was abandoned by the security forces. Foreign mercenaries moved in and entrenched themselves there. The militants now claim that Sopore is a 'liberated area'. The BSF was withdrawn from Lal Chowk and the next day, a devastating fire destroyed property worth several crores in that area. J&K Police mutinied and the Army had to be called in to quell it, but there was little vigorous follow-up action. The most sensitive security complex in Srinagar, the State Secretariat, was subjected to rocket attacks and terrorist violence spread outside the Valley to Doda.

It is against this backdrop that the Hazratbal siege came, putting the nation is suspense for 32 long days and providing Pakistan a welcome opportunity to continue in internationalizing the Kashmir issue. On April 9, 1993, the security forces had laid siege at Hazratbal and 18 militants were inside, but for some unknown reason the cordon was ordered to be suddenly lifted and the militants escaped. Thereafter, security forces were stopped from searching for militants in Hazratbal or the neighbouring University area.

Blood Donation

The militants took full advantage of this restriction. On August 31, the Prophet Mohammad's birthday, they held a blood donation camp and an exhibition of sophisticated weapons inside the shrine. Yet another such exhibition was held in early October, but there was no reaction by the State Government to its authority being so openly flouted. On October 14, there was a report that one of the seven locks on the Holy Relic had been tampered with. A panicky decision was taken to lay siege at Hazratbal with no clear-

cut objective spelt out of either flushing-out the terrorists or starving them into surrender.

When the militants put up bunkers and prepared the shrine for demolition, the Army could have carried out a commando raid with little risk of collateral damage to the shrine. But the clearance never came. Even the strategy of starving the militants into surrender did not yield anything as endless negotiations started at this stage, leading to the supply of sumptuous meals to them. The restraint and patience shown by the soldiers manning the Hazratbal to cordon for 32 days in sub-zero temperature while the militants ensconced inside were provided biryani and blankets was in keeping with the highest standards of discipline.

The Centre, the State Government and the Army did not appear on the same wavelength. Even within the State Administration, there were differences. Lt. Gen. Zaki, the Security Adviser, is reported to have resigned while Jatiley, another Adviser, was wanting to be relieved. While the Hazratbal standoff continued, the BSF opened fire on demonstrators at Bijbehara, killing over 30 of them. No immediate action was taken against the BSF Commander by relieving him of command or suspending him, and giving due publicity to this. To this day, a judicial inquiry is still to be constituted. Such actions undermine our position and cause avoidable embarrassment.

Great Relief

We "blundered" into a successful and satisfactory end of the impasse at Hazratbal to the great relief of the nation. This episode needs to be critically analysed to draw correct lessons in crisis management for the future. Once the mountain passes close with the onsets of winter vigorous military operations must be launched against the militants. Side by side sincere and concerted efforts should be made to win the hearts and minds of the people of Kashmir . This calls for a properly coordinated media blitz at home and abroad as part of a well-planned psychological warfare.

A proper unified command under a military commander in command of troops should be set up rather than a coordinating committee under a Security Adviser. The Army's normal chain of command must not be abridged. It must not be placed under command of the State Government even when senior retired Army officers happen to man key posts in it. The

Army assists the State Government, when required, but never replaces it nor is it placed under it. The much-needed National Security Council which remained a non-starter during the regimes of Rajiv Gandhi and V.P. Singh and which was promised by P. V. Narsimaha Rao in March, while replying to the Defence debate in Parliament, must be set up without further delay.

While the US has to be made to realise in unmistakable terms that India will not brook any interference in Kashmir; talks should be commenced with Pakistan to find a bilateral solution, as envisaged in the Simla Agreement. Whatever may have been the rup-up of events to the happy outcome at Hazratbal, there is no doubt that this has been our first major success in Kashmir, for a long time. Let us take full advantage of this to resolve a long-festering problem which has been so seriously endangering both our national integrity and our national commitment to secularism.

Courtesy: Hindustan Times,November 29,1993

HAZRATBAL AND AFTER
FLAWED APPROACH

Lt. Gen. V. K. Sood [Retd.]

The Hazratbal crisis may be over but the reverberations are threatening to be longer than the thunder-clap, which ended with the surrender of militants who got more media attention than they could have bargained for. Where they left, the incensed masses have taken over.

Little wonder, the Hurriyat Conference, a conglomerate of disparate separatist groups, and the Muslim Auqaf Trust, charged with the management of the safety of shrines, have yet to confirm that the Holy Relic, which triggered the crisis, is safe. The shrine's Imam, Bashir Mohammad Farooqui, who is busy recanting his putative references concerning desecration of holy places by entry of arms, is simply scared to incur the wrath of militants by confirming the Relic's safety. Till this does not happen, the crowds will not visit the holy shrine, nor offer Friday prayers. Nor will the evacuees of the nearby houses, presently lodged in the Regional Engineering College, return. This call has been given by the Hurriyat, which the Valley Muslims know is the militants diktat.

If this were not enough, the Hurriyat has virtually demanded uninhibited passage of people (read militants) to the shrine by threatening a Valley strike if the newly constructed bunkers of the BSF in Hazratbal compound are not removed. The Government is clear in a fix. While the State Government may be justified in congratulating itself for a job well done, a quick look of the sum-total achieved by the Government and militants during the 32 days cordon of the shrine eloquently determines how one side has won at the others's expense.

Tampering

The moot issue that unleashed the crisis is the requirement itself of the cordon that was thrown around the shrine, merely on unconfirmed reports that the outer locks of the room containing the Holy Relic had been tampered with. Why did the State authorities not consider it necessary to ascertain the facts and motives behind such supposed tampering, before rushing to play the militants' game-plane? How naive Governor Krishna Rao sounded when he confirmed publicly after the militants' surrender that the storming of the shrine was not the Government's intention. Such action, he said, would have been considered only if the safety of the Relic was jeopardized.

With doubts about the safety of the Relic being never in question during the 32-days crisis, the Government plentifully played the militant merry-go-round. It unabashedly provided that militancy thrives upon. A month of hightened national and international media attention.

For instance, after receiving reports of locks tampering, the Government without any delay ordered the BSF to put a cordon around the shrine. What is, however, intriguing is the replacement of the BSF by the army soon after. One wonders why it was necessary to employ the army in the first place. Is it that the State Government lacked faith in the BSF? Or were they apprehensive of over-reaction as is the BSF propensity, fully displayed a couple of days later in Bijbehara when 40 unarmed civilians were killed and dozens injured when BSF opened indiscriminate fire when dealing with demonstrators? It needs mentioning that under the so-called unified command, the BSF is exclusively responsible for anti-insurgency operations in Srinagar, while the army is tasked for the remaining Valley.

The Option

Even if the option to storm the shrine was being considered as part of contingency planning, a company or so of national security guard or army para commandos would have been able to accomplish the job with the BSF remaining in close cordon mode. In retrospect, it appears that the deployment of the army at Hazratbal was a hasty step and not necessary at all. This is the first time that the army has been called upon to undertake such a passive task — a colossal misuse of the combat force.

The question of exercising the hard option of use of force to flush out militants has been hotly debated in the country. Protagonists of this view wax eloquent and even draw parallels with Operation Blue Star (Golden Temple), little realising that such comparisons are irrelevant. Factors determining Blue Star were not only very complex but vastly different. Even the subsequent operation Black Thunder undertaken by the NSG at the Golden Temple bears no resemblance to the Hazratbal situation.

Use of force a la Blue Star would have been, militarily, the best and the softest option. But its political, religious and international ramifications would have been very serious and far-reaching. Very rightly, therefore, the State Government chose the harder option of establishing a cordon to prevent the militants' escape and tiring them to surrender by cutting off food, power and water supply to the shrine.

Surrender of the militants would have been expedited, giving them so much less media attention, had the High Court not directed the State Government to supply food to all those inside the shrine. That the administration provided them a veritable wedding feast of biryani, tabakmaz and rogan-josh is another matter.

According to Press reports, the army was most unhappy at the matter in which they were sidelined by the State authorities in the matter of food supply inside the shrine. It is not disputed that the army when employed on such tasks does so in aid to civil power.

Little said about the state of intelligence collection by various civil and paramilitary forces operating in the state, the better. Reports about the number of people inside the shrine were grossly exaggerated. Initial reports given to the Press by the State authorities declared that nearly 300 people including 50 to 70 heavily armed militants were in the shrine. It was also claimed that Pakistani, Afghan and some other foreign nationals were also holed up inside Hazratbal. All proved a squib. Those who eventually surrendered were 62 people, of which 40 were low level militants, including two from POK. A total of 20 odd weapons, the likes of which are nabbed any day by the army in the State, were recovered. Going to town over such a catch is yet another example of ineptness of our intelligence system.

On the other hand, militants have undoubtedly more than succeeded in sharpening the focus on the already internationalised Kashmir issue which

appeared to be their aim. Pakistan could well have master-minded the plot and its timing. The meeting of the Organization of Islamic Countries in Riyadh, the UN General Assembly session and the conference organized to discuss the Kashmir issue in Brussels, all happening at the time when Hazratbal hogged the limelight is an incredible coincidence. Furthermore, a new dispensation in Islamabad came on-stage with a charged Kashmir salvo. And US President, Clinton's reference to Kashmir in his speech at the UN General Assembly, followed by Ms Robin Raphel's anti-India stridency even questioning the very validity of Kashmir's accession to India soared the militant's morale and put the State Government on the defensive.

After-effects

The Hazratbal crisis is behind us, though its after-effects on the Kashmir imbroglio continue. The question is how long can this state of affairs be allowed to say adrift. It was heartening to read the Home Minister's statement released in Srinagar on the day of the Hazratbal militants' surrender that the Government is considering bold initiatives on Kashmir. One hopes it was not another political rhetoric.

Kashmir is a serious flash-point in the sub-continent that has the potential to lead to another war between India and Pakistan. Both countries can not be unaware of the havoc a war would unleash considering that the possible use of nuclear weapons is not ruled out. It is, therefore, in the interest of the leadership in both countries to forget past prejudices and embark on bold new initiatives to find a just, mutually acceptable and lasting solution to this problem.

Courtesy: Hindustan Times, December 6, 1993

HAZRATBAL AND AFTER
HONOUR THE WORD

Balraj Puri

The peaceful settlement of the Hazratbal crisis provides a new opening in Kashmir if proper lessons are learnt from it. The first and foremost thing to realize is the unique position of the Dargah, as the shrine is popularly known, in the life of the Kashmiri Muslims. They call it Madina Sani — second Madina where the first mosque was built by the Prophet himself. It symbolises the totality of their personality; their Muslimness as well as Kashmiriat.

It is peculiar Kashmiri institution. For, it is not a normal Islamic practice to enshrine a Relic of the Prophet and to make such a shrine a place of worship where devotees gather for its "deedar" (glimpse) on specific days. In fact, some doctrinaire Islamic schools of thought had declared such a practice as un-Islamic.

Pilgrims

The Dargah, therefore, does not attract any pilgrims. Nor does it cause any emotional attachment of Muslims from outside Kashmir. The Muslim rulers of Pakistan, too, are unlikely to be emotionally concerned with maintaining the distinct Kashmiri symbol of Islam. In fact, it might have helped them to get much diplomatic and political mileage against India and to integrate Kashmiri Muslims into the Muslim mainstream, if something had happened to the shrine in case the Army had attempted to storm it to clear it of the holed up militants. They were banking on the so-called hawks in the establishment and politics of India. Fortunately, the Government did not fall into the trap.

The situation demanded that the Government and the people of Kashmir make a common cause for the limited purpose of protecting the shrine and the Relic isolating the issue from the wider Kashmir problem. This was the ostensible objective of the siege of the shrine by the army. It could have got support of the people if the credibility of the Government was not so low and if it had shared with the people the "hard intelligence" it claimed regarding the ISI conspiracy to remove the Holy Relic or if it had allowed verification of the charges that the militants had tampered with the two locks of the outer door of the safe room and had attempted to break the internal lock.

The Army was commendably disciplined and professional during the period of the siege. The Army Chief, General B.C. Joshi wisely counselled the authorities "to learn to win the battle of wills in Kashmir rather make the storming of the shrine the only issue". Other senior Army officers also gave an assurance that the Army would abide by whatever decisions the State Government took and dismissed all speculations about its differences with the civil authority or that the morale of the jawans would be affected by withdrawing the shrine. The restraint observed by the army and the State Government led by the Governor, General K. V. Krishna Rao, won appreciation from countries like the USA, the UK and Iran.

The same cannot be said about the role of the BSF. The assault on Abdul Ghani Lone who was leading a small procession in Srinagar, in full view of the national and international media, and killing of about 50 persons in a small town of Bijbehra did more damage to India's position than all the agencies of Pakistan could do. It further aroused popular anger against the siege.

There have been some adverse comments in some circles about the role of the judiciary. But at the most, the High Court and the Supreme Court could be said to have erred on the side of being too humanitarian and compassionate. In any case its decisions regarding supply of food, clothes, water and other amenities to the holed up civilians is likely to revive faith of the people in the judiciary of the country — a no small gain.

The dialogue between the holed up militants could be flawed from many angles. Mediation of an independent third party could have expedited the settlement and would have ensured its smoother implementation. The Hurriyat Conference leaders who were invited to mediate were, as they

themselves asserted, not neutral mediators. They were a party aligned with the militants. However, all said and done, the value of the patient dialogue has been established. Cordial contacts between the Government and the militants and their over-ground leadership are a positive outcome of the episode which may prove useful for resolving the wider problem. Dialogue and not the gun can lead to its solution is, above all, the lesson of the Hazratbal settlement.

Critical Stage

Now we enter the most critical stage where the danger of relapse can not be ruled out. One can learn from the experience of a similarly critical situation in 1964, after the Holy Relic, which had mysteriously disappeared, was recovered. The agitation for the recovery of the Relic had created a degree of inter-communal and inter-regional harmony in the State, never witnessed before or after the incident. But there has never been a dearth of people in New Delhi who have a genius of converting every opportunity into a problem. Home Secretary, Vishwanathan and I.B. Director, B. N. Mullik, had declared that the Action Committee was an instrument of Pakistan and its demand for identification of the Holy Relic was anti-national. The confrontation on the issue of identification led to police-firing on demonstrations in the Valley killing many people. In reaction, anti-Hindu riots started in Dhaka which, in turn, sparked off a chain reaction of anti-Muslim riots in Jamshedpur and Ranchi.

Efforts to enlighten the then Home Minister, G. L. Nanda of the disastrous implications of the obstinate stand of the Vishwanathan-Mullilk team failed. Even Jayaprakash Narayan who interceded, did not succeed in convincing the Home Minister.

Prime Minister, Nehru, had fallen ill those days and was completely inaccessible. A letter was sent to him to explain that the risk involved in getting the Relic identified by the Action Committee in a room was far less than when it would be displayed for "deedar" to lakhs of people. Nehru agreed with these arguments and suggestions and deputed Lal Bahadur Shastri to visit Kashmir, who despite efforts by Mullilk to sabotage his plan, allowed identification of the Relic. The Action Committee declared it to be genuine and an explosive situation was thus averted. In almost a similar manner, the gains of the Hazratbal settlement can be squandered today.

Terms

Of all the persons, Brigadier S. Kanwar, in charge of the Army operations at Hazratbal, has struck the right note when he said that "the terms of the agreement between the holed up militants and the State authorities did not mean victory or defeat of anybody". He refused to call the coming out of the militants from the shrine as "surrender" saying that they left it after prolonged negotiations with the Government. Without disclosing the terms of the agreement, he expressed his satisfaction over them. Moreover, two prominent public men, G. M. Dagga and G. M. Bakshi who, as confirmed by official circles, were witnesses to the "deal" have divulged its details.

It is possible to find fault with some terms or the other of the agreement. But more damage would be done by dishonouring the agreement than possibly by any term of it. Credibility and prestige of the word of the Government are very important. It is not a question of being soft or tough with the militants. The basic consideration should be to use the Hazratbal settlement to initiate a process of rebuilding the confidence of the people, badly shattered by a series of un-kept pledges and assurances by the Government of India. It would be unwise to miss the opportunity for any short-sighted consideration and allow it to become another cause for further confidence shattering.

However, the reported resignation of all advisers to the Governor, near paralysis of the administration and lack of the political input into the policies of the State Government and clear-cut direction to it from the Centre are obvious handicaps in making the best out of the post-Hazratbal situation.

Courtesy: Hindustan Times, December 6, 1993.

Section - K

KASHMIR POLICY THE CASE FOR RECONSIDERATION

Ajit Bhattacharjea

Day after day, for more than 18 months, the harvest of bodies, mostly young, has grown higher. And, now, nobody is willing to predict how much longer the blood must flow, how many more families must mourn their dead, before peace returns to the Valley, or whether it ever will. Some of the mourners are in other parts of India for the casualties are in the security forces and civil administration as well: but the bulk are in Kashmir, and those that survive are under-going the agony of a second summer without the tourists on whom their livelihood depends. Then there are the many forced to live as a refugees elsewhere. And for the rest of the country there is the prospect of more and more millions being spent on a seemingly endless mini-war when the economy is already reeling under other pressures.

By now it is obvious that the war is not winnable as it is being fought. Further delay in reconsidering Kashmir policy will increase the human and financial cost and complicate the search for a solution even more than it has already. The military response would be to pour in more troops and remove all restraints on doing whatever they feel necessary to put down opposition, irrespective of civilian suffering.

If instructed, presumably the Indian army can treat the Valley as occupied territory and crush the militants and whoever else is unfortunate to be in the vicinity. Some officers are grumbling at having to fight "with one hand tied behind their backs" as in Sri Lanka, perhaps forgetting that the entire justification for their presence is the claim that Kashmir is a part of

India, and Kashmiris are Indians. Once allowed to use both hands, it will be hard for New Delhi to continue to maintain, as we do at the United Nations and elsewhere, the Kashmir is a part of the Union voluntarily. Technically, Kashmir is still on the UN agenda, and even the present level of operations is attracting criticism.

A second military option is to attack the bases in Pakistan-held Kashmir where the militants are trained and from where they are supplied. This seems to make more sense. The damage caused would not hurt the Valley and, if properlyplanned, reduce the level of insurgency. The danger would be that army involvement could steadily raise the level to warfare to a full-scale Indo-Pakistan war, which would ruin the overstrained economies of both countries. The military mind would take in the third option of threatening Islamabad directly with attack if all aid to Kashmir militants is not stopped forthwith, without considering the implications of going to war on an issue on which the justice of India's case is not universally accepted.

That, in fact is the crux of the issue: military action cannot solve a political problem, a fact we can continue to ignore only at great cost to the economy and even more to our democratic institutions and international reputation. The continuing insurgency in Kashmir, the readiness of so many young men, not brought up in a warlike milieu, to go on risking their lives in the face of heavy casualties, indicates a degree of motivation, of hostility to what they see as India, that can not be won over. While most Kashmiris may not feel that strongly, and would like to be left alone, nobody visiting the Valley recently returns with the impression that they are loyal to India. The level of antagonism has risen with repression.

Forgotten Fact

There are some who insist that Kashmiris never favoured India, from the beginning, since they are Muslims. For them to admit the possibility of secular nationalism not based on religion would be as contrary to their concept of Hindutva as it is to Mohammed Ali Jinnah's two nation theory. And so Sheikh Abdullah's historic conversion of the Muslim Conference into the National Conference in 1938 and his subsequent rebuffs to Jinnah are ignored. The fact of Muslim citizens defending Srinagar when the Pathan raiders loosed by Pakistan were at its gates in October, 1947, and the Maharaja's police had fled is forgotten, together with the cooperation our soldiers received even after regular Pakistan troops replaced the raiders.

Fortunately, many observers, including Western correspondents, testified at the time to the popular support for India. I can vouch for it from personal experience. A second attempt to smuggle in hundreds of saboteurs into the Valley in 1965, called Operation Gibralter by its Pakistani planners, failed for lack of local support, with several infiltrators located with the help of local villagers. But this is not seen as a tribute to India's secular ideals by the Hindu communalists. And so, although our case at the United Nations and elsewhere hinges on popular support for Kashmir's accession {which was why plebiscite was promised}, it is denied. In his Rationale of Hindu State, Balraj Madhok prefers to maintain that India's claim to Kashmir is "not only based on the Instrument of Accession [signed by the Maharaja] but also the right of conquest."

Compare this with Jawaharlal Nehru's speech in the Lok Sabha on August 7, 1952. In the course of a debate on Kashmir, he said;

> "So, while the accession was complete in law and in fact, the other fact which had nothing to do with law also remains, namely, our pledge to the people of Kashmir — if you like to the people of the world — that this matter can be affirmed again or cancelled by the people of Kashmir, according to their wishes. We do not want to win people against their will and with the help of armed force; and, if the people of Jammu and Kashmir State wish to part company with us, they can go their way and we shall go ours.
>
> We want no forced marriages, no forced unions. I hope this great Republic of India is a free, voluntary, friendly and affectionate Union of States of India. The people of Jammu and Kashmir State not only agreed to come to us as they did but it was at their request that we took them into our large family of States."

The contrast shows that more is at stake in Kashmir than holding on to a relatively small piece of real estate. At stake are the basic democratic and secular values of the Republic. If these are sacrificed by reliance on military force to keep the country together, we will lose for more than a strip of territory, we will lose the underlying justification for the national struggle for independence. For India will revert to an empire ruled by force, not by consent.

Why and when many Kashmiris lost confidence in New Delhi is a matter of conjecture. Elections there have been consistently rigged. The only one to be widely accepted as fairly conducted was in 1977, when Janata came to power in New Delhi. Sheikh Abdullah was back among his people after long years of detention. The resuscitated National Conference won handsomely even though he had agreed to drop the demand for plebiscite in return for the assurance that Article 370 of the Constitution, guaranteeing the special status of Jammu and Kashmir, would remain with the State Assembly.

In my view, the people of Kashmir lost their newly regained confidence in New Delhi's commitment to democratic institutions and Constitutional pledges when, after B.K. Nehru refused to do the Centre's dirty work, Jagmohan was appointed Governor in early 1984. He proceeded to topple the government formed by Farooq Abdullah, the Sheikh's son, by engineering defections among his Ministers, who were promptly rewarded with office in the next government headed by G. M. Shah. But this was found to be so corrupt and unpopular that it had to be dismissed.

Open Repression

Thus the State came under Governor's rule enabling Jagmohan to further erode its special status probably, the last straw was the open repression, with extended curfews and repeated firings by the security forces, that marked his second disastrous tenure as Governor in 1990. Since then, terror and counter-terror have dominated the scene. The possibility of a political settlement has been ignored.

Yet, the survival of the Jammu and Kashmir Liberation Front [JKLF] and its commitment to independence rather than joining Pakistan suggests that secular nationalism need not give way to religious nationalism. Reports of clashes between its workers and those of the numerous militant groups favouring Pakistan, with similar differences emerging on the other side of the Line of Control, show that Kashmiri nationalism is still a force to be reckoned with — even though the Pro-Pakistani groups are favoured from across the border and New Delhi, unwisely, does not seem to discriminate between the two. If one or other is eventually to control the Valley, India will certainly find it easier to live with the JKLF which of course, is now only the KLF.

Before the current phase of armed militancy began the JKLF was reported to be willing to negotiate on the basis of a return to the degree of autonomy the State enjoyed when it first joined India: handing over only the subjects of External Affairs, Defence, Communication to the Centre. It may not be too late to begin talks on a limited association with the Union, a confederal relationship or even on independence in stages on the model of Bhutan. Then, perhaps, some of the Valley's Hindus and Muslims too, now refugees elsewhere, will be welcomed back.

Courtesy: Indian Express, August 6, 1991.

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Courtesy: Indian Express, August 6, 1991.

ANGUISH OF KASHMIRIS AN AGENDA FOR COUNTERING ALIENATION

Ravinder Kumar

As a citizen of India I share the concern that is being voiced by many in the country about the tragic turn which events have taken in the Kashmir Valley over the past few years. To explore the possible and desirable mode of reconciliation of Kashmir with India, it is necessary to review some seminal cultural and political trends in the Valley. It is also necessary to understand the motivation which prompts Pakistan to export terror to Kashmir.

In recapitulating all this , the manner in which successive governments in New Delhi have managed politics in the Valley has to be highlighted too, since this has made its own contribution to the situation in Kashmir. Only through such a review will it be possible to shape solutions which can restore order in the Valley and restore, also the relationship which bound Kashmir to its own volition to the rest of India in 1947.

The erstwhile relationship of cordiality between the Hindu and Muslim communities of the Valley lies at the core of the problem, even though in recent years this relationship appears to have deteriorated almost beyond repair. Scholars often speak of that composite cultural heritage which underpins Indian society. Nowhere was this composite culture more in evidence until recently than in Kashmir.

Dogra Dynasty

The installation of a Dogra dynasty in Kashmir, under British aegis, in the Mid-19th Century, wrought little change except to establish a new ruling family over the Valley. The Dogras also created a new class of land-

lords largely drawn from their community; plus a few Kashmiri Brahmins; though the latter were much more conspicuous as a literati, manning the liberal professions. This alliance of dominant classes also included a sprinkling of Punjabi families, who controlled business and trade and behaved as a subaltern herrenvolk.

The peasantry and the artisans were almost wholly Kashmiri Muslims. The artisans were miserably poor despite their superb craftsmanship and the peasants were impoverished cultivators of land owned by the largely Hindu ruling class.

Small wonder, then that in the 1930s, the people of Kashmir - the petty middle class and the artisans in Srinagar, and the peasantry in the rural areas - initiated movement which was directed against both colonialism and feudalism. After the initial hesitant steps, the movement drew Hindus and Muslims together into a secular alliance directed, first, against princely rule; and next against British imperialism. It further threw up in Sheikh Abdullah a Charismatic figure of truly heroic stature.

By the 1940s, the popular movement in Kashmir led by Sheikh Abdullah, linked itself with two other revolutionary forces in the subcontinent; with the All India States People's Conference and with the secular leadership of the Indian National Congress represented by Mahatma Gandhi and Jawaharlal Nehru. A new Kashmir thus came into existence. The incorporation of Kashmir into the Indian Union was brought about through princely accession, which was subsequently endorsed by a democratically elected constituent assembly. This new Kashmir effected the most radical land reforms to be introduced in any state of the Indian Union. It was also offered free education, at all levels, to the young in the state. Between radical land reforms and widespread education, the people of Kashmir moved dramatically into a new phase of social development. There was little appreciation of Hindu-Muslim amity in Kashmir among the rulers of Pakistan, when it came into existence in August, 1947. Instead, the Pakistani rulers argued that Kashmir ought logically to accede to Pakistan. To bring about such accession, they organised a covert invasion of the valley in October, 1947 under the leadership of Pakistani army officers in Mufti.

Hence, also the attempt to stimulate an uprising in 1965, which fed into the sequence of events that led to the emergence of Bangladesh. Finally, nearer our own times, the Pakistani ruling circles have created a large

number of training camps, near the Indo-Pak border, or within Pakistan-occupied Kashmir, to which young Kashmiris have been lured by false promises and let loose on the Valley after being trained in sabotage operations, Not surprisingly such a development has stilled the voice of the "silent majority" in the Valley.

The export of terror by Pakistan to the Valley has been greatly assisted by the dissemination of Islamic fundamentalism in Kashmir. Islamic fundamentalism is a phenomenon which is understood very inadequately. Suffice it to mention that such ideologies batten upon the frustration of the under privileged-classes which modernisation has created in so many Islamic communities. While the frustration may be understandable, it often assumes a form characterised by the most unlovely aggression. For reason not difficult to comprehend, there is a great deal of legitimate resentment against India amongst the Kashmiri people.

Fundamentalists

Since the early 1980s, a number of Muslim Countries, most prominent of all Pakistan, have been pouring substantial money's into Kashmir, to create a network of fundamentalist missionaries in the Valley. The propaganda directed against non-believers of these missionaries has created a climate of intolerance which has undermined the traditional amity that characterised relations between Hindus and Muslims. over and above this, the authorities in New Delhi, too have contributed to the current impasse. A lot can be said about the peremptory manner in which Sheikh Abullah was dispossessed of his office in 1953; and the lack of legitimacy of the successive regimes which were established in Srinagar, finally resulting in the reinstallation of the Sheikh. The dismissal of Dr. Farooq Abdullah at a later date, coinciding with the appointment of a controversial, governor, contributed to a similar end.

Yet, above all, it was the fall of the Congress Government in 1989, and the installation in office of a minority government, which set the stage for the present crisis.

After training youngmen in the weapons of insurgency, and exporting fundamentalism to Kashmir in the 1980s, The government of Pakistan (or its agencies, like the Inter Services Intelligence) let loose a reign of terror in the Valley. It encouraged thousands of militant youth to cross the

line of control in Kashmir, and attack the institutions of governance, pushing in the process the silent majority into a state of abject acquiescence. Through such means, Pakistan located in the Valley, in each urban neighbourhood and rural settlement, a network of militant organisations which organised ordinary Kashmiris into an anti-Indian crusade. They also provoked retaliatory action by the Indian army and the para-military forces, with the inevitable violation of human rights that were magnified beyond recognition by the propaganda machineries set in motion by those who loved India not at all.

Main Problems

If this is a situation today, how can it be remedied? How can the net work of militancy be broken at the same time as the erstwhile cordiality between the Hindus and Muslims is restored and the people of the Valley are drawn into a relationship of mutual regard with the Indian people.

Such a 'healing touch calls for a number of coordinated moves. First, it is necessary to create a national consensus on Kashmir between different political parties resting upon a constitutional formula which reinforces the unity of India at the same time as it respects the autonomy of the Kashmiri people, secondly, as recently acknowledged by the authorities, the political process needs to be restored in Kashmir. Thirdly, a stern warning needs to be held out to our arrogant neighbour, that interference in our affairs could lead to retaliatory action 'at places' and through means' of our choosing; and finally, a massive effort has to be mounted on the part of all concerned - the army, the para military forces, the police and finally, the civil government - to convince the people of Kashmir that they are honoured citizens of India, exercising to the full the right and privileges exercised by other Indians.

Through such means, it should surely be possible to set the people of Kashmir on the path to peace and prosperity at the same time as they are drawn into creative union with rest of India.

Courtesy: The Times of India, April 30, 1992.

HEARTS AND MINDS OF MEN

N. C. Menon

In mid-May, Washington was host to an "international symposium on terrorism in Kashmir" sponsored by the Indo American Kashmir Forum. The seminar was well-planned, well thought-out. Papers were read on which the authors had evidently spent a good deal of time and efforts.

The underlying theme was quite sadness at how the Kashmir Valley, once considered heaven on earth, had been transformed into a veritable hell-hole of violence, intimidation and terrorism.

The dignified symposium was in happy contrast to the noisy rally outside by members of the Pro-Pakistan Kashmir-American Council, which did not endear itself to anyone by its lurid posters and offensively incendiary slogans.

The one aspect that came through at the symposium was that the current crisis in Kashmir was not clash between the pundits and the pirs, or between Hinduism or Islam, although the Valley is rife with such poisonous propaganda. The real problem is between the peace loving people of Kashmir who want nothing more than to be left alone to pursue their various vocations in peace, and the Pakistan-trained, armed and financed band of terrorists whose members have a vested interest in turning the populace against the administration by halting all progress through subversion and disruption.

New Ideas

As far as New Delhi is concerned, the battle in Kashmir is one for the hearts and minds of men. The best weapon in that battle is not the gun — although guns are essential to maintain security and to counter the terror-

ists. The battle can best be waged with new ideas and programmes, improved implementation and better communication. The need of the hour in Kashmir is not heroics but healing not nostrums but normalcy, not surgery but serenity.

Meanwhile, much is heard about the large amounts of money being pumped into Kashmir. But many of the people live in abject poverty and their condition is getting steadily worse.

There is no doubt money is flowing in to Kashmir. The Government of India has been generous in its largesse, partly due to the erroneous belief of some in New Delhi that the best way to solve any problem is to throw money at it. There are others who believe that India must bid in cash for the loyalty to the people in the Valley against inducements by inimical elements across the border.

There has been only one problem: Most of the money is swallowed up by local cormorants through whom the programmes are administered. The elitist venality of such Kashmiri ward bosses has been one of the prime reasons for the precipitate degeneration of the state.

Again, there is a lot of money being pumped in by the Inter Services Intelligence agency of Pakistan. But this goes only to those committed to Pakistan's plan of subversion. Besides, since the funds are to be utilised for destructive purpose, none of it trickles down, even indirectly, to the benefit of the people.

Safety of Life

There are reliable reports that money also flows into Kashmir from oil-rich Middle East kingdoms like Saudi Arabia which are interested in funding the protection and propagation of Islam. But here again, Charlatens divert the lion's share to their personal profit. What is left is channeled through mosques and madrasses, but reaches only a narrow clientele which has the time and the inclination to be committed to or is seduced by the siren song of Islamic fundamentalism.

So bad is the situation in the Valley that many Muslim craftsmen too are now joining the exodus, merely out of economic necessity. The immediate concern of the man in the street in Kashmir is, of course, about the safety

of life and limb. But beyond that, the problem is not religious, but economic.

That very fact might well provide the Government of India with a new opening to achieve a better rapport with the people of Kashmir to become a benevolent partner in their march towards a better economic future.

New Delhi's effort should be to appeal to and co-opt the silent majority in Kashmir, which is basically opposed to violence, but does not have the confidence or the clout to stand up against the Kalashinkovs of the terrorists. The situation is made worse by the fact that the silent majority is now exclusively concerned about everyday sustenance in a climate in which they helplessly watch as their means of livelihood in tourism, crafts, or whatever disappear in short order, with not even a glimmer of a light at the end of the dark tunnel.

At the same time, there is much to be said for the old axiom that a man with a wife , a job and a child in school makes a very poor revolutionary. If the people of Kashmir have an assured economic stake in being an integral part of Indian Union, they are far less likely to be misled by the fundamentalist propaganda.

The first order of priority for New Delhi should, therefore, be to initiate programmes in Kashmir — and for Kashmiri migrants outside — that would provide the people with at least the bare necessities of life, and the dignity that goes along with it. Helping Kashmiri migrants who have had to flee for economic or safety reasons makes sound sense. Apart from the fact that the Government has the responsibility looking after its citizens in trouble, such assistance will eventually help the migrants go back home, and they will then form the best spokesmen for the administration.

It will also be fruitful to provide Kashmiri children in camps outside with educational facilities. In the long term, providing scholarships, fellowships and other educational facilities in such fields as medicine and engineering in other Indian cities to students from Kashmir would also go a long way, in the necessary process of assimilation, which is now sought to be circumvented by vicious propaganda.

There is an immediate need for crash programme in Kashmir that would enable the people to earn a living. These can even be "make work"

programme, as long as they give the people a stake in not pulling out their stakes.

It is important for the Centre to administer the programmes directly without leaving it to the tender mercies of local henchmen. It is also vital to select personnel for the programmes with care. Especially at the middle and lower levels which will have the greatest interaction with the people, it is important to have staff members who are dedicated, imaginative and patient

Best Protection

Once the programmes begin showing results or perhaps even before they do, vigorous attempts will be made to disrupt them because a happy populace friendly towards the administration is the last thing that the terrorists and their mentors across the border would like to see. Such attempts at disruption will inevitably include a degree of violence and the authorities will have to provide — and also appear to be providing — the best protection possible under the circumstances. In that context, police intelligence will have to be considerably improved.

The administration will also have to do a better job of letting the people know the kind of facilities available to them. Communication is of the utmost importance and the Government will have to undertake the task imaginatively even to the extent of launching counter propaganda.

It would not hurt to announce the new programmes with a great deal of fanfare. Even if some of them are not swallowed to take off, the fact that inimical forces are sabotaging projects of obvious benefits to the people at large, could well become the thin end of the wedge that will ultimately disillusion the masses with those who profess to help them, but lead them deeper into the mire

To take a small example; In rebuilding a bridge blown up by terrorists, the administration would do well not to bring in its work gangs from elsewhere, but to include as many local people as possible in the labour force. If the useful bridge, built with the sweat of their brows is again blown up by the terrorists, the local populace is not very likely to take kindly to them. In fact their reaction is certain to be outrage at the utter waste of work well done.

Mao's Advice

The militants and terrorists are obviously utilizing Mao's advice to the operate like fish in the sea of people. New Delhi must change the structure of the sea in order to make it uninhabitable for the fundamentalist fish.

That brings us to the international aspect of the Kashmir problem. India, more often than not, takes a publicity heating on the issue, to a great extent because it is always.easier to make wild allegations of atrocities than to prove that the charges are motivated figments of the imagination.

Anti-India elements here in the US with avid assistance from Pakistan, have been mounting expert and expensive professional campaigns of the issue on Kashmir. The Goebbelsian techniques have managed to sow the seeds of doubt and suspicion in foreign minds about India's bonafides, particularly among members of the US Congress.

India could usefully publicise its new and massive programme of development to aid the people of Kashmir. It would be smart to devise the programmes in a manner that would make it possible to request the participation of the US Agency for International Development {USAID]. Apart from the fact the USAID is good at what it does in grassroots development, such collaboration will give Washington a vested interest in the success of the programmes, and also provide India with a favourable pipeline to the US Congress.

The same old fire-fighting policy that India has adopted in Kashmir is obviously not working. It is time for a new approach. And there can be no better strategy than to enlist the people of Kashmir in the battle against terrorism. And the time to begin is now.

Courtesy: Hindustan Times, June 4, 1992

HUMAN RIGHTS KEY TO KASHMIR POLICY

Balraj Puri

Shouldn't categoric denunciation of terrorism as violation of human rights, by leaders of several Western countries, more specifically by the British home secretary and the foreign secretary, encourage India to adopt human rights as the main plank of its Kashmir policy? But criticism against the human rights movement in official and certain non-official circles seems to have become sharper?

A leading columnist summed up such criticism saying "Human rights groups are clamouring all the time about the human rights of merchants of terror, secession and mayhem and remaining silent about the rights to life of the innocent victims of the killer gangs".

Not a single important human rights group in India or abroad has to date even remotely implied a plea for mercy for the terrorists or indifference to innocent killings. Yet a three part report in the Times of India. by Mr. Subhash Kirpekar (January 28-30) not only condemns the whole report of Asia Watch but also its credentials. The report refers to a nexus between Asia Watch and Pakistan. It is accused of "completely and conveniently glossing over the fact of Pakistan"s involvement in training, funding guiding and coercing terrorists in Kashmir. It does not mention the killings of minorities and brutalities against them by terrorists"

Asia Watch Report

The fact is that the report completely and conveniently glossess over 25 pages of the Asia Watch report which deals with grave violations of human rights and international law",committed by militant groups. Quoting Indian, American and other sources, the report says, 63 Pakistan-operated training camps have been functioning at different times

The reference to Kashmiri Pandits' migration concludes; "it is clear that many Hindus were made targets of threats and acts of violence of militant organisations and that this wave of killing and harassment motivated many to leave the Valley. Such threats and violence constitute violations of the law of war".

However, both Amnesty and Asia Watch have reported cases of excesses committed by the Security forces. Nobody can assert that soldiers are incapable of committing excesses.If the security forces, who were allegedly sympathetic to Kar sevaks at Ayodha, could be accused of committing excesses, their behaviour does not become more humane when they deal with alienated Kashmiri Muslims.

In fact it is to the credit of the Government that it has instituted inquiries into many complaints of excesses against the security forces and punished several of them. This contradicts the notion that the security forces are beyond reproach.

The non-official media has largely shed its initial inhibitions and self-imposed censorship and is regularly reporting, exposing and criticising the excesses of the security forces. The judiciary, too, has set aside the arbitrary and unlawful actions of the executive in curbing civil liberties.

The leaders of all major political parties, barring the BJP, have now and again protested against the excesses of the security forces. Rajiv Ghandi bemoaned that they "ran berserk" Mr. V. P. Singh admonished them for not always drawing a distinction between the militants and the people. The Jammu and Kashmir governor, Mr. G. C. Sexena, admitted that some recent incidents of excesses reversed the process of normalisation.

Refuting the argument that punishment of the guilty would affect the morals of the security forces, Mr. Ved Marwah, recently retired advisor to the State governor, asserted, in. a newspaper article, "on the contrary, this has a salutary effect on their morale and discipline."

Another criticism against the activities of the human rights groups is that they expose India's weaknesses and thus defame the country. But within minutes of any incident in the Valley, the news is broadcast from many foreign radio stations, followed by visual telecasts. If the national media and human rights activists do not report excesses by the security forces exagger-

ated accounts of them will spread.

India's argument that Kashmir is an internal matter did not carry conviction even with otherwise friendly countries. Reflecting, the new international mood on the subject the outgoing UN Secretary General, Mr. Javier Perez DeCuellar, had observed, " The principle of non-interference with domestic jurisdiction of State can not be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity."

Within the Valley also, human rights have emerged as the foremost issue. The mass processions which used to shout slogans of AZADI two years ago are now vociferous in protesting against alleged excesses by the security forces. In many places, similar protests have been staged against the militants for similar allegations, Shouldn't the human rights movement in Kashmir be encouraged instead of allowing it to relapse into the secessionist movement? The weaknesses of India's international diplomacy and domestic Kashmir policy can not be attributed to the human rights movement in the country.

The situation in Kashmir might have been retrieved much earlier if, for instance, Mirvaiz Maulvi Farooq's funeral procession was not fired upon at in May, 1990, if innocent people had not been killed at Khanyar and Chota Bazar a year later and if the alleged gang rape incident at Kunan Poshpura had been inquired into through a credible agency instead of entrusting it to an ASP whose report is still awaited.

No viable Kashmir policy is possible today if it is divorced from human rights. At a time when contradictions are developing between popular militant groups in Kashmir and Pakistan, India's ability to demonstrate that it has more respect for human rights would make a crucial difference in the Kashmir situation. Human rights groups are the only emotional link left between Kashmir and the rest of India. Any attempt to weaken that link would be a fatal blow to the national interest

New World Climate

In the new world climate, India can regain the diplomatic initiative on Kashmir only on the plank of human rights and not by trying to cover up cases of their violations, or decrying the role of human rights groups. But

first a determined and sincere effort must be made to prevent such violations. Secondly, human rights groups should be encouraged to monitor this policy and credible inquiries into allegations of violations should be held. It is only after India demonstrates its earnest commitment to human rights that it can really succeed in putting Pakistan in the dock for its violations by sponsoring, training and arming terrorist activities in Kashmir.

Assurances from the Prime Minister and the home minister that all complaints of excesses would be inquired into and the guilty punished, coupled with the recent operation Goodwill by the army in Kashmir are indeed some hopeful signs. In this context,the proposed appointment of a human rights commission and cell in the home ministry are also steps in the right direction.

Courtesy: The Times of India, February 11, 1992

SHALL THE TWAIN NEVER MEET

Khalid Ahmad

Prime Minister Mian Nawaz Sharif has come back from Rajiv Gandhi's funeral saying the Indian leaders are all willing to discuss Kashmir and that Pakistan will do its best to arrive at a peaceful settlement with India as a prelude to normal relations COAS General Aslam Beg, talking to Pakistan Navy in Karachi, he said that no normalisation is possible without a solution of the Kashmir problem.

Mian Nawaz Sharif's assertion that Indian leaders are willing to talk about Kashmir seems to signal a change in the Indian stance which has so far insisted that Kashmir was not negotiable He hopes that the new government coming to power in New Delhi after the elections would undertake a new band of diplomacy with Pakistan. Will there be a change in the Indo-pak dialogue after June? Will the two countries embark upon a period of lack of bilateral threat, enabling the two to save money on defence and pay more attention to the economic problems that confront them.

The Simla Agreement is still the official blue-print under which to compose the bilateral differences. The Agreement is ambivalent on Kashmir because without this ambivalence the treaty couldn't have been signed. The document enshrines the willingness of the two sides to normalise relations despite the one issue on which they can not agree. The agreement allows two interpretations of how the dispute is to be treated within the bilateral framework, making it possible for government on both sides to speak righteously while addressing their electorates. 1972 onwards, India and Pakistan have adopted the posture of normalisation, a trend that has never really been reversed despite problems. Because of the Indian 'occupation' of Kashmir, the onus of changing the status quo has always been on Pakistan, and the 1965 war was fought under pressure from this obligation. After the fall of East Pakistan, the treaty at Simla affirmed the resolve of

Pakistan not to pursue the change of status quo through war as a national objective. Despite politician's statements that they would tear up the Simla Agreement after coming to power' the trend in Pakistan to pursue the problem of Kashmir through peaceful means has persisted.

The Congress-I government in India attempted to divert Pakistan's attention from the obligation of changing the status quo in Kashmir by presenting it with more faits accomplis in the shape of the occupation on the Siachen glacier and the barrage on the Wullar Lake. This device worked because the military government of General Zia did come under pressure on both counts and was diverted from the Kashmir dispute. For almost twenty years, the two countries did not go to war although the' clouds of war' did loom from time to time as per the dictates of 'coercive diplomacy' decided in New Delhi.

The Indian government may have preened itself on handling Pakistan in the years that followed the signing of the Simla Agreement. There were differences between the Congress-I and the Janata Party on how to handle Pakistan in the mid-seventies but these soon dissolved into a consensus in favour of 'coercive diplomacy.'This consensus was based on bureaucracy, the Indian intellectual, and the Congress-I government. It was a part of India's big-power vision which looked beyond Pakistan and sought to oppose the growing American influence in the region. Pakistan was viewed as an agent of imperialism which had the tendency to become dangerous for India's democracy.

The big irritant emerged with the revolt in East Punjab in the wake of the murder of the Akali leader Longwal. For the first time since the signing of the Simla Agreement, India had the onus of reversing the status quo, that of Pakistan's interference' in East Punjab. The Afghan war isolated India and General Zia, fighting the war against the Soviet Union, got the chance to revamp Pakistan's antiquated defence system . India thus had another irritant to protest against, but this was in the framework of the cold war which pitted India and Pakistan against each other in the clash of two superpowers

It was the Kashmir uprising in 1988 that doomed the bilateral efforts at normalisation. The rise of SAARC had signalised the abatement of bilateral tensions, its virtual fall after the 1988 summit was on account of the Kashmir revolt and opposition politics in Pakistan. The Congress-I had

witnessed the first blow to SAARC after it sent the Indian troops to Sri Lanka. It interpreted Pakistan's efforts to save the SAARC as a strategy of bonding together of the smaller neighbours to deny India the big-power status in the region.

This was a mistake SAARC was as much an effort to compel India to deal with its neighbours as equals as an effort to stave off internal political pressure not to normalise with India.

The greatest hurdle to normalisation today is the sheer weight of the jurisprudence of irritants in the bilateral equation, and the lack of statesmanship on both sides willing to over-ride bureaucratic case-building and public opinion. As for the 'ambivalence' needed for normalisation, one must admit that there is more of it on the Indian side than on Pakistan's. There is critical opinion in India on the handling of the Kashmir and Punjab problems, just as there was opposition to what the Congress-I government was doing in Sri Lanka. There is also opposition to India's continued occupation of the Siachen Glacier. Pakistan, not yet used to free debate and difference of opinion, does not display any 'ambivalence' with regard to the policy pursued by Islamabad with regard to Kashmir and East Punjab.

Would it be possible to normalise on the basis of a rational assessment of the irritants that still haunt India and Pakistan? Would it be possible to avoid war when it appears logical and pursue peace when its logic continues to remain foggy?

One has to step outside the 'Jurisprudence' of disputes and abandon the South Asian perspective of emotions to see the logic of peace, a logic that the entire world seems to see quite clearly. Wars have brought no relief to the two countries pursuing deadlocked solutions through the force of arms. Both have been forced to spend colossal amounts of money on the upkeep of their armies, allowing their foremost national issues to recede into the background. India's last budget suffered a deficit to 10 billion dollars while it spent ll billion dollars on defence. It is expected to borrow 7 billion dollars from World Bank and IMF to take it out of the morass of deficits it has slipped into. Its buoyant export sector suffered a setback when it could no longer pay for imports and its huge 80 billion dollars of external indebtedness was faced with default. Pakistan has virtually lost all its foreign creditors and the last bit of money it received was given with the warning that it should curtail its defence spending. Since the Kashmir uprising,and the

worsening of its relations with India, the Pakistan army has received almost 20 percent more money than before the uprising. Islamabad doesn't know where the money to run the next budget is going to come from.

The greatest problem is that there is virtually no one on both sides who would like to advance an argument in favour of normalisation in the face of public passion and entrenched establishment positions. When Willy Brandt began his Ostpolitik in the 1960s he did it in the face of heavy odds.

The policy allowed East German spies to penetrate the Bonn Establishment, something that finally brought down his government,but his policy formed the foundation of strong bilateral trade between two ideologically opposed states. The policy of building treaty relationships with the Soviet Union, pursued by Nixon and Kissinger in spite of the unabated cold war contest in most regions of the world, was another example of finding the logic of peace when circumstances pointed to the logic of war. The Sino-Soviet border dispute was counter-pointed by border trade that benefited both sides even as the charade of deadlocked normalisation talks was maintained.

The rationale of war is strong but there is no rationality in war itself. Pakistan and India have lost their potential of sorting out their problems through aggression because both are in economic decline. The various 'status quos' that are sought to be reversed will have no salutory effect on them if they are actually reversed. The populations on both sides will have neither the will nor the ability to heap kudos on a government that goes to war as a solvent. South Asia is fast becoming an area of uniform poverty sustaining expensive armies that it can not afford; in some countries these armies threaten to intervene and take over the civilian government. The establishments on both sides are not able to think of peace in the midst of a strong logic of war because their own existence has become coterminous with this logic.

If there is an Indo-Pak summit after June, the political leadership on both sides must think of subverting the 'jurisprudence of contradictions through a lateral approach. Foreign secretaries talking endlessly without any significant brief is a good device to avert immediate hostilities, but to start a dialogue of peace the two countries need to open up a dialogue in the non-official sector, with economic and intellectual lobbies whose interests

are threatened by the rumours of war.Such 'a political' circles as human rights activists, journalists and public seakers that recognise no national frontiers,condemned in the past as 'fifth column' should be allowed to address important forums on both sides. Even though the experience of these circles has been heart-breaking in the past, the governments must agree to encourage this 'fifth column The countries need to listen to arguments they don't like, they need to listen to neutral views that undermine the rhetorics on which the current bilateral deadlock is predicated.

Courtesy: Frontier Post (Pakistan)

DEMOGRAPHIC CHANGES IN KASHMIR

Dr. Bashir Ahmad Dabla

Demography is generally used to denote the study of phenomena connected with human population such as composition, birth, marriage and migration. As happens in the broader human society, the population also undergoes deeper and wider transformation due to various factors. The Kashmiri society too has faced micro-level as well as macro-level changes in its population in the recent past. Some of these changes are natural caused due to population dynamics and some are imposed or manipulated by interested parties due to various reasons.

There prevails a serious feeling among the educated in Kashmir that the population figures shown in the census reports are not correct, but are manipulated by interested parties in the government and bureaucracy.

After the 1981 census figures were released in Jammu and Kashmir state,they showed a strong reaction against these (figures) and held that these were manipulated consciously. The Kashmiri intelligentsia demanded that a fresh and genuine census should be carried out. It was in that context that the then J&K government had ordered for a mid-decade census to be carried out fresh. But,that census could not be carried out due to unstable political conditions in the state at that time and resistance of the non-local bureaucracy in J&K government.

Doubtfulness

These doubts about the census reports in J&K were not baseless. In fact, the Kashmir intelligentsia was aware about the plans of many Indian

political leaders, professionals and businessmen to change the existing composition of population in Jammu and Kashmir, which at present, has a Muslim majority.

The Bharatiya Janata Party'(an extreme Hindu revivalist political party)position on abrogation of article 370 from the Indian Constitution and subsequently change the population composition in J&k is glaringly clear in its declared Kashmir policy. This party has not hesitated even to take and accept the services of the Israeli government and political and non-political leaders of that country in this regard. At the time of his recent visit to India, the Israeli Foreign Minister, Shemon Perez, gave them clear ideas for carrying out the plan to change the dominant Muslim character of J&K state.

TABLE - 1

Decreasing Muslim Population in J&K, 1951-1991

Year	Total population	Muslim Population	
		Number	Percentage
1941	2,946,728	—	—
1951	3,253,852(Projections)	2,277,694	70.00
1961	3,560,976	2,421,463	68.00
1971	4,616,632	3,000,810	65.00
1981	5,967,389	3,789,291	63.50
1991	7,718,700(Projections)	4,785,594	62.00

Source: Census of India, 1941, 1951 ,1961, 1971, 1981 and 1991.

At the same time, some elements in other political parties in India too uphold more or less these ideas, but they prefer to pursue this objective silently. The assurance given by the ruling Congress party leaders in this regard cannot be taken for granted. The Babri Masjid case is an eye opener in this regard.

TABLE - 2

Growth Rate in India and J&K State, 1951-1991

Year/Decade	India	Growth Rate (per 000) J&K State
1951- 1961	21.51	9.44
1961- 1971	24.80	29.65
1971- 1981	24.66	29.69
1981- 1991	23.50	28.92

Source: Census of India,1951,1961,1971,1981 and 1991.

TABLE - 3

Birth and Death Rates in India and J&K State, 1971-1991

Year	India		J&K State	
	Birth Rate	Death Rate	Birth Rate	Death Rate
1971-1973	30.30	15.1	32.3	10.5
1980-1982	30.8	12.3	31.2	9.0
1986-1988	32.1	11.0	32.5	8.0

Source : Census of India.

The preceding arguments regarding heavy decrease of Muslim population in J&K are given in Table 1 census data.

Crude Realities

The table 1 reveals certain crude realities with regard to the Muslim Population Proportion in J&K State in the past five decades. There has been a continuous fall in the Muslim Population in J&K and simultaneous rise in the non-Muslim (especially Hindus) in the state in the past 1947 period. While the Muslim population has gone down by 8.00 per cent from 1951 to 1991, there has been the upward trend of the Hindu Population by about 7.50 per cent in the same period. If this trend of population continues

for few decades more, it may lead to a significant reduction in the dominant Muslim population in J&K. This may lead either to the Punjab -like situation (where the Sikhs have been reduced to 52.00 per cent of the total population or the Muslim in the State may be reduced to a minority by a slight margin. On the other hand, if the population of migrants in Jammu (who migrated from West Pakistan to Jammu in and after 1947 and settled there permanently) will be given the status of citizenship in the state (as they demanded in the previous decades), it will also result in the significant reduction in the Muslim population in J&K.

It is important as well as interesting to know that this heavy decrease in the Muslim population in J&K has happened despite the fact that the growth rates in the state have remained higher in comparison to the average growth rates at all-India level. It is shown in Table II census reports.

New Composition

The argument that the Muslims in J&K State maintain higher growth rates reflect in the relevant census data but not in the final results. The census figures in Table III reveals clearly higher birth and lower death rates in J&K state in comparison to its all-India record.

In the light of the above analysis, an important question arises, i.e., whether the continuous decrease in the Muslim population in J&K state is a demographic reality or a manipulated effort? The Kashmiri intelligentsia believes in the latter. It upholds that this has been done consciously under a planned scheme and in a systematic way for broader political objectives.

Courtesy: Radiance Views Weekly, Delhi, January 1, 1994

FUTURE OF KASHMIR -1 ENCOURAGING QUACKS & QUISLINGS TO HAVE A FIELD DAY

Jagmohan

A nation that does not think of the future will generally have a bleak future, because it is in the vision of the future that inspiration of the present action lies and past becomes relevant and instructive. As T.S. Eliot wrote:

Time present and time past/Are both perhaps present in future/And time future contained in time past.

The recent events reinforce my view that neither Kashmir nor the country as a whole can look ahead with any hope unless the country learns from its past errors and develops immediately inner and outer strength to shake off its 'tyranny of shallowness'. For the steering wheel of Indian history to take a correct turn in the future, the habit of wishful and illusory thinking has to be abandoned. The other day, at a public meeting, a young student asked me to reply in one line to his question: 'What went wrong in Kashmir? "Truth want astray: rather it was waylaid," I said.

The stark and grim realities, as they exist on the ground, have to be fully recognised and tackled with a pure, positive and practical frame of mind; otherwise, truth would continue to hit us in the face and leave us with a bloody nose. As Emile Zola put it sharply, "While truth is buried underground, it grows, it chokes, it gathers such an explosive force that one day it bursts out and blows everything up with it.

The facts elicited from the Government through questions in Parliament are revealing. In 1992, there were 4,971 cases of terrorism-related violence, giving an average of l4 incidents a day. One hundred eighty three persons kidnaped, including 43 civil officials, 30 members of the security forces and 26 political workers. two thousand three hundred twelve private

houses, 200 shops 65 government buildings, 57 educational institutions and 28 bridges, were burnt. One thousand nine hundred nine people were killed as compared to 1,393 in 1991 and 1,177 in 1990, showing a rising graph of violence.

From the period January 1, 1992 to March 31,1993, the security forces were attacked 3,647 times, since July 1992, terrorism-related incidents have been increasing sharply even in the Doda district of Jammu.

The year 1993 began with a macabre incident: at Sopore in which at least 50 persons were killed and the entire central market was gutted. During the first four months alone, 130 civilians and 170 militants lost their lives. A.A. Guroo was murdered on April 1. He was kidnaped a day earlier. At his funeral, there was a firing which resulted in the death of his brother-in-law, Ashiq.

On April, 9, a contingent of BSF, which was in occupation of Sanatan Dharam Sabha building at Lal Chowk moved out. The following morning, a crowd, led by a few militants, sprinkled oil on the building with impunity and set it on fire. Soon, the centre of Lal Chowk turned into an inferno, consuming 260 shops and 50 houses. When the para-military forces rushed to the site, there was prolonged-exchange of fire. In this and other terrorism related violence in the Valley, 124 persons were killed in three days - 36 on April 9,50 on April 10 and 38 on April 11.

In the last week of April, J&K police virtually mutinied. The policemen took out a procession from the police headquarters to the UN Observer's office. They marched in Uniform and carried their weapons and vehicles. To stop the procession from proceeding beyond a point, a barricade of empty trucks was set up. But it was meekly lifted when processionists 'cocked' up their rifles. At the UN Observer's office, a demonstration was held for,about an hour. Senior police officers had no clue how to handle the situation which their dithering has caused. The ostensible cause for this unprecedented act of indiscipline was the death of a constable in the Kashmir Armed Police, Riaz Ahmad, in the Army custody. But the real cause was embedded in the infection of internal subversion.

Earlier, on January 24,1992 there was a powerful bomb explosion in the Srinagar Office of the Director General of Police itself. In this incident, besides the DG, four top police officials were seriously injured. The orderly

of the DG died on the spot.

The soft underbelly of the Indian State has proved tempting to the ISI and it has spread its tentacles for and wide. The 13 simultaneous bomb blasts in Bombay on March 12 killing nearly 300 people and injuring nearly 1,000, show the level to which it has penetrated. Its increasing activity could be seen from the fact that in Kashmir alone, during 1990-92 , 455 rocket launchers, 474 machine guns, 8,048 grenades, 7,851 A. K. series rifles, 1,625 mines, 2,616 pistols/revolvers and 9,04,329 ammunition items were recovered. The rocket attack on the State Secretariat in the highest security zone of Srinagar on May 12, which killed two employees and caused widespread panic, is another indication of ISI's alarming success in terrorism.

The above facts give rise to a few basic questions. Why has the scale and intensity of terrorism increased? Why is there irritation amongst the security forces? Why incidents like those of Lal Chowk and Sopore take place? Why did the policemen virtually mutinied? How could powerful bombs explode in the DG's office.

The answer to these and allied questions is that truth has never been, and is still not being, faced in Kashmir. The truth is that there is a large-scale subversion from within. The truth is that no one is trying to rebuild the collapsed structure of civil administration. The truth is that unsure minds are holding the stage when constructive, courageous and committed leadership is needed. The truth is that some senior officers are indulging in gross indiscipline and getting away with it. Some of them represented about the alleged atrocities not to their own government, their own Parliament, or their own courts, but to the 'World Forum'. And they are still enjoying cosy jobs, drawing huge salaries, and,salaries, and, to capital, feeding foreign journalists and human rights activists; with slanted, and sometimes totally fabricated stories.

What is happening now are the inevitable consequences of not facing the truth and encouraging the quacks and quislings to have a field day. It has been said "Those who make revolutions dig their own graves". The same is perhaps, true of those who are inconsistent and irresolute in their approach and refuse to call a spade a spade. Their myopic vision is crippling the nation and impering its future.

ISSUE IN KASHMIR: PROTECTING HUMAN RIGHTS FROM ARSENAL SENT BY PAKISTAN

G. M. Telang

The government has decided to set up a human rights commission to go into charges of excesses by the security forces in Kashmir. The idea seems to be that when Amnesty International and similar foreign organisations demand access to Kashmir to carry out their own investigations, they will be asked to interact with the Indian commission. But what is the guarantee that the foreign human rights groups are willing to be reassured by the findings of the commission on specific charges of human rights abuse? The commission, like several other statutory bodies, will be outside the control of the executive. But will this really impress the foreigners? They seem to be conditioned to disbelieve that the Indian democratic system is fully and genuinely democratic, that it has evolved its own checks and balances and that an independent body like the new human rights commission can be expected to be genuinely independent like the judiciary. The Election Commission and the Comptroller and Auditor-General.

The Indian media, no less free than those in Western democracies, have routinely given publicity to serious accusations of human rights violations in Kashmir. These have also been freely aired on the floor of the Indian Parliament. In fact the Indian human rights groups have given their foreign counterparts much of the ammunition with which the latter have assailed India. Visiting Western Journalists, too, have from time to time,sent reports from Kashmir highly damaging to India. Despite all this and the decision now to set up a human rights Commission, foreign organisations may still not give up their anti-Indian tirade which fits in well with Pakistan's political design.

The Government's apparent bid to reassure at least Washington on this issue is not, however, free from a risk. It may, for instance, be the

beginning of an irreversible involvement of the Government in the politics of human rights. And this brand of international politics may well take the form of an unacceptable kind and degree of foreign interference in our politics. It will be easier to perceive this danger if Pakistan's role in dramatising the human rights issue in Kashmir is kept in mind. Pakistan has resorted to this strategy precisely to deflect the Western World's attention from the genesis of the Kashmir problem. That is Pakistan's determination to annex Kashmir just because it is predominantly Muslim. It has waged three overt wars and instigated large-scale terrorism in Kashmir with this end in view. It is nobody's case that in the midst of an insurgency fuelled by vast quantities of sophisticated arms generously shipped by Pakistan across the border, the security forces need not be overly worried about human rights. But if violations do occur, as indeed they have, they must be seen as aberrations whose correction is best left to India's democratic procedures.

A realistic assessment of the profusion of human rights rhetoric over Kashmir will be possible only if the enormity of the problem confronting the security forces is fully appreciated. In February, the then Governor of Kashmir ,G. C. Sexena, said that in the last three years over 7,000 Kalashinkov rifles, 400 machine-guns, 400 rocket-launchers, 1,000 rockets, 7,000 grenades, 2000 pistols and revolvers and thousands of mines had been seized in operations which saw 500 security personnel killed. The staunchest pro-Pakistani operative in Islamabad's lobby in Washington will hesitate to ask for proof that all this had really come from Pakistan. Nor will independent observers question the veracity of Sexena's disclosure if they are also aware of what the joint American-Russian study mission (which included Prof. Stephen Cohen and Prof. Leo Rose) has said on the issue of Pakistani aid to the Kashmiri extremists. " According to foreign sources (emphasis added), it said,"some 60 such camps (for training terrorists) exist in Pakistan; half of them are situated in Azad Kashmir (i.e. Pakistan occupied Kashmir) and half on Pakistani territory. Training was reportedly carried out by Pakistani military men, mostly retired........

> "In some camps they were assisted by Afghan Mujahideen from the Hikmatyar group, with the co-operation of the Pakistani Inter-Services Intelligence Agency ... there is also evidence that some Kashmiri Muslims fought alongside the Mujahideen in Afghanistan. After the rebel victory at Khost in April, 1991, journalists identified about 500 Kashmiri who had taken part in the battle.

Even the leaders of the main separatists groups have undercut Pakistan's statements about the spontaneous nature of the event in Kashmir. For example, the leader of the Jammu and Kashmir Liberation Front, Amanullah Khan, disclosed in January, 1990, that the protest in Kashmir had been carefully planned and supported by well-trained armed insurgents coming from Pakistani territory...... We were also informed concerning the participation of Kashmiris in the Afghan War and Mujahideen in the events in Kashmir. The Government has nothing to do with this, but such participation may take place on a personal basis".

The study shows an adequate understanding of the politics involved in the complicated Kashmir problem. If men of the standing of Prof. Cohen and Prof. Rose are so well acquainted with this politics, the chances of key policy-makers in Washington not being led astray by the exaggerated accounts of human rights abuse in Kashmir or by Pakistani misuse of such abuse are by no means bleak. This impression has been strengthened by the defeat in the House Foreign Affairs Committee of the move by Dan Burton, the most consistent and fervent spokesman for Pakistan in the U.S. Congress for denial of development aid to India. Opposing the proposal, Garry Ackerman, Chairman of the Sub-committee on Foreign Affairs, expressed the fear that it "would seriously disrupt our bilateral relationship with a major power without in any way answering our human rights concerns."

Despite all these signs of a balanced appreciation of the stakes in Kashmir, New Delhi can not afford to be complacent. Pakistan has made it clear that it will take up the issue of human rights violations in Kashmir at the Vienna conference on the wider goal of human rights promotion. For Pakistan it is primarily a partisan political issue (as become amply clear, for the umpteenth time, at the recent conclave of the Organisations of Islamic Conference Foreign Ministers) rather than one of human rights per se. It is trying hard to generate a convenient momentum of the politics of human rights rather than of the protection of human rights as such. The attempt, as Islamabad sees it, must conform to the basic Pakistani postulate that the Kashmir issue is the "unfinished part of partition". This design must be defeated as much in the interests of the protection of the human rights of the Kashmiris of an eventual Indo-Pakistani settlement of the Kashmir problem.

Courtesy: Indian Express, June 14, 1993

KASHMIR: EATING SOUP WITH A KNIFE

Mohan Guruswamy

War between nations in the modern age is a three headed monster. Its most awesome face is nuclear war. Conventional war whether general or limited is the more familiar face. It involves the use of non-nuclear weapons by uniformed forces. Given the high costs of arms, the present geopolitical regime and,as in the case of India and Pakistan, the alleged risk of escalating to a nuclear exchange, this become as unattractive policy option. Thus Pakistan finds more expedient for it to resort to means which can be broadly designated as unconventional warfare.

The kind of warfare involving lightly armed combatants is a no holds barred combination of violence, terror and psychological war intended to compel the targeted adversary to negotiate and agree to terms intended by the aggressor nation.

The situation that today prevails in Kashmir is the climax of the guerrilla phase. Now the enemy does not need to fight or preach or terrorise to gain support from the population in general. He is well organised and lives incognito with the population. This is his greatest strength. It is now believed that the number of insurgents in the Kashmir Valley could be anywhere between four to six thousand.

Experts differ widely on the ratio of troops to insurgents needed to successfully counter an insurgency. What is agreed is that the cover provided by either the terrain, or as in this case the population, gives them a very advantageous force multiplier. Sir Robert Thompson who directed the successful British campaign against the Malayan communist insurgents advises the reading of "The Man-eater of Rudraprayag" by Jim Corbett to gain an appreciation of how a small

number of insurgents can tie down troops in numbers so greatly out of proportion to their strength.

Thompson drawing upon his experience in Malaya and Vietnam is of the opinion that at this stage the enemy has three options. " The first is to seek a military victory by the classical solution laid down by Mao-Tse-Tung, of Changing guerrilla warfare to a war of movement." Unfortunately for us this option does not exist for the Kashmiri insurgent. To do so without a concomitant conventional attack by Pakistan would be to invite swift and well deserved annihilation. The second and third options are closely interlinked and are intended to break the will of the government and force it to negotiate a political settlement. Keeping up the terrorist pressure and fomenting international opinion are integral elements of this.

Pakistan has made some headway here recently. The statement made by the British Prime Minister in New Delhi recently calling for a negotiated settlement "under the framework of the Simla Agreement, and keeping in mind the aspirations of the people of Kashmir and respecting their human rights"and a recent meeting sponsored by the US State Department of 'un-official' representatives of India, Pakistan and "Kashmir" are disquieting pointers.

From the Pakistani perspective nothing would suit it better than to keep this momentum going. As a logical extension of this, at the appropriate time it could even consider a controlled escalation to just that level of a limited conventional war that would allow the West to step in and seek to compel India into acquiescing to Pakistan's demands. The only way to address this Pakistani strategy of compellence is to adopt a policy of active deterrence signaling to it that India has the will and means to cause it great harm.

In Jammu and Kashmir the area of insurgency is restricted to only a part of the State and affects less than half population. The situation is quite different from that in Punjab where only a small section of the population supported the Khalistan movement. If comparisons have to be made, the situation in Kashmir is more akin to that which prevails in northern Sri Lanka. But comparisons end here. The Kashmiri militant is not a committed, motivated and determined as the Tamil Tiger. The Indian Army should know. But unlike in Sri Lanka we so not have the option of walking out, that is if we want to preserve the Indian nation as conceived by the nationalist

movement.

The Kashmir Valley insurgency thrives because of the convergence of three factors — Pakistan, Islamic fundamentalism, and our continued inability to provide good government. This lends credence to the postulation that: "War for a non-aggressor nation is actually a near collapse of policy." Clearly those who think of restoring the political process in terms of installing Farooq Abdullah or another Farooq or worse, a proxy for Farooq Abdullah need to think again.

Any Government combating an insurgency has four options. The first option, and one used often as it seems militarily relatively easy, is Area Clearance. Area clearance involves the extermination or capture of the active guerrillas and the brutal suppression of the civilian population living there. This does not respect any human rights and is not in consonance with civilised norms.

The second option is to fight the insurgents by mounting operation against them while ignoring or isolating civilians. In Malaya the now famous or infamous, depending on your point of view, concept of strategic hamlets evolved by General Gerald Templar was designed to isolate the mainly Chinese guerrillas from the Malaya population. This is now not possible in Kashmir for reasons elaborated earlier.

The third option is to give up the fight. In the case of Jammu and Kashmir we could hand over the region to an outside agency, such as the UN, to evolve a method to determine the aspirations of the people, as suggested recently by Amanullah Khan of the Pro-independence JKLF. This will make the task of the fundamentalist and pro-Pakistan Hizbul Mujahideen much easier as it has marginalised the JKLF.

Even if we settle on some other via media such as granting autonomy to Kashmir beyond anything envisaged in the constitution as now quietly suggested by some of our intellectuals who were guests of the State Department in Washington recently, on what basis can this then be denied to our other sub-nationalities such as the Tamils or Bengalis or Nagas? In our case at least the analogy of the dominoes should hold good. The recent happenings in the late Soviet Union and the former Yugoslavia hold valuable lessons in history for India. One cannot resist from restating: "Those who do not learn from history are condemned to repeat it".

Thus the only option that is really available to us is to take all such political, psychological, economic, social and military actions required to win the population back. The quarrel one has with the government is not that it has not chosen this option, but that it is not waging this war with the purposefulness and commitment it calls for. T.E. Lawrence, a person who knew what he was talking about, said that making war on a rebellion "is like eating soup with a knife". We also know that with determination and patience this can be accomplished. This has been done in India and elsewhere before and there is little reason, given a determined and resilient leadership, and a clear enunciation of goals, why it cannot be accomplished again.

Courtesy: Hindustan Times, April 12, 1993

JAMMU & KASHMIR DELIMITATION SIGNALS

K. Ganesan

The recent criticism of Mr. T. N. Seshan, on his reported stand in regard to J & J fresh delimitation is, to say the least, based on indefensible facts. There are weighty reasons to assail the order of the Delimitation Commission which should not be lost sight of. One might not agree with Mr. Seshan on all issues. He is capable of defending his position forcefully. But the public is entitled to know the other side of the picture which might incidentally place Mr. Seshan's stand in a better light of acceptability.

The J & K Delimitation Commission was constituted in 1981 under the state law for delimiting assembly constituencies on the basis of 1981 census. It had a prolonged existence for about 11 years now. Under the law, the Chief Election Commissioner has been the ex-officio member among three members constituting the high-power commission. Mr. S. L. Shakdher was its first ex-officio member. Since then a number of changes have taken place in its composition. Mr. R. K. Trivedi, succeeded by Mr.Peri Sastri and, on his death, succeeded by Mr. Seshan occupied the position as ex-officio member. Mr. J. N. Wazir, a retired Chief Justice of J&K High Court, was its first Chairman, Mian Jalal-ul-Din, a retired Justice of Jammu & Kashmir High Court, first served as its other member and became later its Chairman followed now by Justice K .K. Gupta, the other member now being justice A. M. Mir. These facts would go to show that the task was dragging on and one of the main unknown reasons for this pause was the absence of uniformity of approach to the basic principles of delimitation between the ex-officio member and the other members.

Associate Members

Added to this, the original set of MLAs who served as associate members ceased to be so on the dissolution of the Assembly in 1983 and after the reconstitution of the Assembly through a general election in June 1983, a fresh set of MLAs became its associate members. The general election to the State Assembly whose life is six years had to be held in 1983 on the basis of the last preceding assembly constituencies because the Delimitation Commission had not completed its task finally by then. Unlike the rest of India,the law does not provide for automatic elections on the basis of the existing delimitation. The J&K Constitution required a special certification by the Chief Election Commissioner for this purpose which was readily granted thus enabling the holding for a general election. Now and then, the Delimitation Commission had held deliberations and public meetings.

Apart from these unsatisfactory situations, it should not be over-looked that there are other weighty reasons. Mr. Sundaram, in whose time the jurisdiction for the conduct of J&K Assembly elections was for the first time entrusted to the Election Commission in 1960, faced a difficult situation at the time of the general election of 1962 when a fait accompli was created locally by the rejection of all nomination papers except one leading to uncontested elections in a number of constituencies.

Directives

Mr. Sundaram then regretted in having assumed responsibility of the conduct of elections in the State without disciplining the local officials. Mr. Trivedi's experience was not different. During his period, in 1983 the returning officer of Doda assembly constituency did not stop counting and subsequent declaration of the result in spite of the Commission's directives to do so on the basis of strong adverse report of the Commission's Central Observer regarding large-scale rigging and violence. Strangely, the High Court stayed the operation of the Commission's direction, which on appeal to the Supreme Court, was vacated incapacitating the member declared duly elected by the returning officer from sitting in the Assembly till its dissolution. There were similar bad cases, then and subsequently, of the inability of the Commission to exercise effective control over J&K election matters.

The narration of these instances, though not having a direct bearing on the present question of delimitation, would in fact call for cautious and

correct legal approach to all electoral matters relating to J&K state. In any event, the present Chief Election Commissioner should be spared of prejudicial criticisms and it becomes necessary to consider all relevant facts.

The areas of J&K delimitation of seats are murky. Section 47 of the J & K Constitution fixes 100 as the total seats out of which originally 25 seats were earmarked for Pakistan occupied area. In 1975, this number had been reduced to 24 thus taking the effective total to 76. Kashmir province was then the gainer of this increase. Now, the number of 24 seats is sought to be drastically reduced to 13 and the 11 seats taken out are being assigned to the three areas of Kashmir Jammu and Ladakh. The distribution of 76 and 87 seats as per 1971 and 1981 census population figures respectively are:-

	Total	Kashmir Province	Jammu Province	Ladakh Area
Existing	76	42	32	2
Proposed now	87	46	37	4

Even after the amendment of Section 47 (2) of the J&K Constitution in 1975, deleting the portion seeking a correlation between the ratio of population of each constituency and the number of seats allotted, the basic guidelines to have regard to the population for the distribution of seats has not been disturbed as provisions of Section 47 (3) of the State Constitution read with section 4(2) of the J & K Representation of the People Act, 1957 have to be observed both in letter and spirit. These provisions still lay down that upon completion of each census, the number, extent and boundaries of territorial constituencies are required to be read just and for this purpose, the population as ascertained in the relevant census has to the first criterion. Of course, the law does not ignore the considerations of geographical compactness, nature of terrain, facilities of communication etc. There is no reason why the above well accepted basic principles should have been ignored by the Delimitation Commission of J & K and the test of population and other considerations is not evenly applied for the purpose of distribution of seats among the three regions and the carving out of territorial constituencies when such principles have been uniformaly and faithfully followed in the case of rest of India.

Distribution

In the distribution of 83 seats out of 87 (leaving out four seats now sought to be assigned to Ladakh region) to Kashmir and Jammu regions, the application of the criterion of population would mean the arriving at the average population of about 70,000 per constituency. Applying this test, Kashmir province having 1981 census population of about 31.35 lakhs cannot get more than 44 seats as against the proposed number of 47 seats and the Jammu having a population of about 27.18 lakh would get 39 seats. In shedding seats to Ladakh region both Kashmir and Jammu should share their responsibility equally. The equitable preposition would be to distribute all seats on the uniform basis of population and compensate Ladakh by nomination of two members to the Assembly from there as a special consideration on the lines of constitutional provisions for the nomination of two women to the Assembly.

If other considerations are taken into account, Jammu has more area, about 40 percent more than Kashmir. Its terrain areas are more inaccessible in all seasons. If elections are held in winter months. Gujjars migrate to plains in Jammu. Added to this Pandits in large numbers have now made an exodus to other States especially to Jammu region. The majority of population of the valley is mainly concentrated in towns like Srinagar and Anantnag which are well-connected by roads. On the other hand, the districts falling in Jammu region are having a large number of far-flung rural areas with difficult terrain and poor communication facilities.

Special Treatment

In view of these considerations, the special treatment meted out to the valley by the Delimitation Commission makes an invidious difference between two regions. It would amount to overplay of "gerrymandering" on a wide scale.

The entire exercise smacks of political consideration. It should be taken note of that the decision of the Supreme Court in Meghraj Kothari V. Delimitation Commission (AIR-1967-SC-669), subsequently amplified by High Court of Gujarat and others rule out the application of extraneous considerations falling outside the scope of the principles laid down in the law, as it would then amount to flouting of the protective clause in the Constitution. It would be suffice to observe here that Pseudo-secularists would

not be deterred from going through the process on political considerations even at the cost of integrity of the country.

The reduction of 24 seats earmarked for the Pak-occupied areas to 13,as proposed, would certainly send wrong signals to the people living there, Pakistan rulers and to the international agencies that India is not seriously interested to recover back the area remaining still out of its control. Our nation would continue to pay such costly price so long as our politicians are allowed to play their brand of secular cards on political consideration. The development in j & K would also create a bad precedent for the rest of country where there is marked deterioration on account of increased threat of regionalism.

Courtesy: The Hindustan Times, December 07, 1992.

PALESTINE AND KASHMIR

Pran Chopra

Wherever one has gone in Europe or America during the past couple of years, one has heard one kind of a taunt flung at India that it has clung to its outdated and outworn position about relations with Pakistan when the whole of western Europe has cast aside its traditional animosities and the frontiers of national sovereignty evolving a powerful new supra-national sovereignty which is going to enrich the whole region.

It would not be surprising if another kind of taunt is flung at India in the coming weeks and months in the context of the emerging agreement between Israel and PLO over the future of Palestine, which will be held up as a precedent which India should emulate with regard to Kashmir.

There was a grain of truth in the former taunt, and there will be one in the second as well. But just as the former grain obscured a larger truth, so might the latter.

The larger truth about western Europe is three-fold. Western Europe came very close together on the economic plane first (which India would also be willing to do with its neighbours if they agreed) before it began to grasp any political nettles. Second, West European countries did so on their own volition, knot under the pressure of external violence and terrorism or the "advice" of powerful "friends". Third, the moment political issues began to impinge upon national sovereignty and sensitivities, nationalist hackles went up and even the economic togetherness began to unravel

Therefore, similar reactions in India about what is happening in its own region are not unprecedented.

Nor should it surprise anyone if India found a different kind of precedent than some others may do in the impending resolution of the Palestine problem. All Indians would welcome this outcome, perhaps even more than they welcomed progress in Western Europe, because Palestine is closer to home. There might be some difficulties ahead as yet about parts of the Palestine problem, but the progress made so far is seen to be heartening not only for the interests of PLO and Israel but for the whole region, and for areas and problems much further afield.

The dispute over Palestine has been one of the bitterest and most obstinate during the past half a century and more. If the two principal protagonists, Israel and PLO, are now ready to bury the hatchet,their example will merit the attention of all protagonists anywhere, and most so the attention of India and Pakistan in their dispute over Kashmir.

But what exactly does the Palestinian precedent suggest which would be of interest about Kashmir?

It suggests first of all that progress became possible only after two things had happened. First, after Israeli actions had made it obvious to anyone who had eyes to see that Intifada was not getting anywhere. And second, after PLO gave up supporting the demand for an independent Palestine and decided to settle for autonomy within the borders of Israel.

It is not very clear how much autonomy Israel will give to those areas of Palestine from which it appears to have agreed to withdraw some of its hitherto absolute authority. But two things are obvious from all the reports which have appeared so far.

The autonomy that is contemplated is much less than the States of the Indian Union have already. And certainly very much less than what much of the rest of India would willingly transfer to the Indian side of the State of Jammu and Kashmir, and in particular to Kashmir, once the Kashmiri demand for total independence and the terrorism and violence with which it is being pressed ceased to stand in the way.

India would be happy to consider this status of autonomy for a reunited Jammu and Kashmir, including the Pakistani side as well, if that would make autonomy within India more acceptable to the Indian side of the State.

A second precedent suggested by the example of Palestine is that while the settlement now available is acceptable to PLO as the authentic representative of a broad spectrum of Palestine, Perhaps reflecting the preferences of the majority, it is being opposed by the extremists, like Hamas, who are threatening to upturn it.

A third precedent is equally relevant, While the United States made an important contribution to the opening of a dialogue between the Arabs and Israel, and so did Egypt, a break through was achieved only when Israel and PLO began to talk to each other directly, without the intervention of third parties which, notwithstanding their goodwill for the region and the cause of the Palestinian Arabs, also had their own fish to fry, often to the detriment of the chances of a settlement. The larger issues they often brought in only confused the real and specific issue which was at stake.

All of these are precedents which India would gladly respect and pursue in similarly conducive circumstances.

Courtesy: Hindustan Times, Sept. 8, 1993.

THE KASHMIRI & PALESTINIAN MOVEMENTS: UNCOMMON DIVERGENCES

Manvendra Singh

The outbreak of full scale militancy in the Kashmir Valley,gave a legitimacy to the Pakistani position it never had before. While political pundits in India squabble over who was responsible for the degeneration of conditions in the valley, there is unison amongst Islamabad's pundits. They are united in their stridency over two points:

- Violations of human and political rights of the Kashmir:
- That militancy in the valley is part of a larger political awareness process, that emanates from West Asia, inspired by Iran's revolution of 1979, and the long and legitimate struggle of the Palestinians.

The rise of Islamic consciousness is a much quoted explanation for the second point. The first falls in favour of the Pakistani stand, for it is clear that fundamental rights are, and have been, violated. That is a price the Indian State has to pay on account of its own follies. The price extracted from the Kashmiris is heavy, but there is little option, because if the writ of the State ceases to run, anywhere, the cost tends to multiply manifold. It reflects poorly on Indian's columnists, that they are not able to accept certain irrefutable facts. Most of the ink is wasted on trading charges and counter-charges, and finding fault in other sides. The blame has to be shared by a lot of people, temporal political conveniences notwithstanding. Indian conditions are such that heroes rapidly become villains, and bandits become heroes, appropriately completing the cyclical process of Indian thought and Philosophy. This, anyhow, is an internal matter and adopting a defensive posture, India only hands the initiative to Pakistan whilst adding credence to its position on the second point, the one of greater worry and concern

Editor's Note:Manvendra Singh is on the editorial staff of the India Express.

Human rights can be handled by an improvement of social and political conditions. But doubts about the very legitimacy of India's position on an internal matter like Jammu and Kashmir is a beach-head that India just cannot allow to be established. This intrusion has to be nipped, for the sake of the inviolate borders and future of the Indian republic's well-being. This requires a cold analysis, and subsequently appropriate dissemination of information. Palestine and Kashmir are as different as sunshine is from moonlight. Forces that provoke and encourage the movements are incompatible, and with deft handling of the situation must remain so. The two are united, however, by sharing a couple of dates that are common.

1947 saw the partition of India and Palestine. Pakistan was born of the former while Israel from the latter. While 1965 virtually sealed the fate of Jammu and Kashmir, almost sanctioning its partition (there is no other way to describe the handing over of Haji Pir). 1967 saw there reunification of Palestine after the Six Day War. Subsequently, the process of political stalemate culminated in the unsubtly rigged elections of 1987 in Kashmir removing the sham of a cover to democratic functioning in the State. 1987 also saw the birth of the 'intifada' the result of a confluence of factors. The seige on Palestinian refugee camps in Lebanon by the pro Syrian 'Amal' since mid-1986 had dehumanized living conditions for the residents. And when Arab League leaders met in Amman in November 1987, all that they discussed was the first Gulf War, even lowering Yasser Arafat's diplomatic stature. Across the River Jordan, Palestinians living under occupation saw all this taking place on the ubiquitous television. And it came as no surprise when the first incidents of 8 December in the Jabaliya Refugee Camp (Gaza) snowballed into the 'intifada'.

The similarities end there, and differences appear from the smog of rhetoric and publicity. The elementary difference between the two movements is, while the Kashmiri aspirations originate from a fundamental political breakdown in the State, the Palestinian movement is a mass reaction to prolonged military occupation (British, Arab and then Israeli), and an inability to be party to any political and constitutional development. As a result of 1947, the State of Jammu and Kashmir decided to merge with India, as was the right of every princely state. It was a constitutional exercise and the fact that India did not make the fullest use of the merger is another story. Palestine, on the other hand, was partitioned by the United Nations when it did not have the authority to do so. Following Palestinian resistance, backed by a token Arab force, it was occupied by the Israeli army,

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Haganah as it was called then. As is obvious, a military occupation and a constitutional merger are two very different events. Kashmir of 1992 is a result of the shenanigans of an insensitive leadership elected by a manipulation of the electoral system, and Palestine of 1992 (though the Intifada is almost non existent now, has it achieved its goals?) results from a lack of political participation by 'subject'. Any attempts, therefore, at a Kashmir initiative must begin from where, any why, the political forces gave way to the Kalashinkov. The Palestinians have already begun the process of attaining peace and a place under the sun.

The nature and systems of operation are differing between the two movements. The 'intifada' was an unarmed popular uprising, remarkable in the degree of unity expressed by diverse Palestinian groups. Without any form of outside support, even the Palestine Liberation Organization (PLO) entered the picture much later, the groups coordinated the insurgence by constituting a Unified Command of the Uprising. The spontaneous upsurge of the Palestinian people became the 'intifada', and hence the egg. To highlight the differences, a crucial fact to bear in mind is that the Palestinians have struggled with remarkable resilience in face of Israelis (obviously) and Arab hostility. They are as unwelcome to Arab leaders as they are to the Israelis. Palestinian groups that do find patronage in Arab capitals are fringe outfits and bereft the respectability in Palestinian eyes. The Abu Nidal group, for instance, recruits mainly from North Africa. Kashmir, on the other hand, would not have burned without the active participation of Pakistan, which found an empty playground on account of Indian ineptitude. The external factor is primary to the Kashmiri cause, has always been so, and will remain as such. The groups are armed and trained by a foreign government. In Kashmir, the groups and subsequently violence, came before the mobilization of the people. They were inducted by the publicity of violence, and in sharp contrast to the Palestinian experience the chicken followed the egg. The one lesson Pakistan put into practice from 1965 was that only locals could be used to put up a struggle. It was alright to have a few 'agents provocateur', but the bulk of the manpower had to be from the area of operations. The Kashmiri revolt, therefore, began with the induction of natives trained in sabotage and armed tactics. While the existence of Kashmiri liberation groups has a history, their role and effect was marginal to say the least. Until the eruption of 1989, they were confined to acts of petty bomb attacks, bank robberies, sky jackings etc. While the bombs became ever more sophisticated in 1989, a systematic campaign against intelligence agencies resulted in the death of a number of officers. With the kidnaping of Ms

Rubaiya Sayed by the Jammu and Kashmir Liberation Front (JKLF), militancy entered its current phase. In the early days, an unarmed part of the struggle was also given much prominence . Shrill "Azadi" (independence)rallies, with a fair sprinkling of women and the young, were the media face of the movement. This was a diversionary tactic, which allowed the militants to smuggle weapons into the Valley. The public rallies, interestingly, changed in tenor after two significant Pakistani moves. Benazir Bhutto's hysterical `goliyan chalao' (fire bullets) speech at Muzaffarabad was followed by a West Asian jaunt for the cause of Kashmir. It produced nothing and neither did raising the issue at the Organisation of Islamic Countries (OIC). The OIC session, in any case was overshadowed and followed by the Iraqi invasion of Kuwait. The Palestinian uprising in the occupied territories was essentially an urban movement. The West Bank and Gaza Strip are very small in size, and hence, the few villages that do exist are in the shadow of towns and cities. Dealing with the 'intifada' has been easier on that account. The network of roads that Israel constructed soon after the 1967 war has proved to be of immense help since the rapid movement of troops and material is untroubled. With gently rolling hills, and little cover from foliage, the West Bank is a relatively easy terrain in which to tackle an uprising. And infiltration is difficult, as the River Jordan to the East, and the Sinai Desert to the South act as natural barriers. Over the years Israel has set up clever listening posts along the border. In any case Israel's four neighbours do not help those Palestinians wanting to enter. In Kashmir the very opposite is the reality. An energetic and active policy is in operation by Pakistan to aid the infiltration of Kashmiri militants, by all necessary means. The area to cover is enormous, while the terrain is beautiful but certainly not security friendly. The weather makes the appreciably improved roads virtually impassable during the long winter months.

The Israelis made a very careful social analysis of the Palestinians, and used the chinks to make inroads in terms of informers and even armed agents. The Border Guards, with reputation not unlike the Provincial Armed Constabulary (PAC), have been ruthless in dealing with the demonstrators. Drawn from the Druze and Bedouin, the Guards have come in for much criticism and are feared. India on the other hand, displayed its social illiteracy by not tapping the diversity of Jammu and Kashmir. Untill the recent Doda operation, violence was largely confined to the Valley, but now it appears such tranquility is a thing of the past. After 1965, Delhi and Srinagar have ignored the pastoral Gujjars and Bakerwals. Historically discriminated by the Valley Kashmirs these two groups offered great potential in dealing

with infiltration and gathering of intelligence. Any courtship now would probably be dealt with cynicism intelligence has been the major weakness in India's efforts at dealing with the militancy in Kashmir. While Israel completely revamped the Shin Beth, its internal intelligence agency when the 'intifada broke out, India's intelligence network has not yet come up to the mark. The effectiveness achieved by the revamping has allowed the Israeli Defence Forces (IDF) to mount significant operations that systematically broke the uprising. They were able to mark out leaders of cells, and even future leaders. Some of the so called internecine killings can be attributed to selective IDF operations, in the guise of intra-group killings. The rise of Hamas, the Islamic consciousness group, is not an innocent phenomenon and its first patron, so to say, was Menachem Begin eager to break into PLO strongholds. A secular society, Palestinians never gave much attention to Hamas. While the leaders of secular groups were constantly in goal, only the Hamas remained to offer a semblance of leadership. This allowed Hamas a free hand in stamping itself across the political map of Palestine, becoming ever more strident as time went by

Differences apart, there is much Indian security forces can learn from Israel's handling of the 'intifada' . The IDF has the benefit of being culturally European, thereby allowing it to wear a cloak for some sensitive operations, for example. This is something Indian security forces would never dream of doing. Such technicalities notwithstanding, the Israeli illustration highlights the use of special operations forces. This is an arena where India has lagged terribly, more so since the opportunities offered have been substantial. As time goes by ,India will have to use its arsenal of special forces, currently languishing in bases. For that, a dispassionate policy has to be in place, bereft of the baggage that goes with an open society. Indian crowd control methods have to be modernised. Presently, there are only two exercised options, the lathi charge and failing which the bullet. There are various intermediate options that exist and water cannons are just one of the many. In any internal stability operation, the primary motive force is an efficient intelligence system. There is no equivalent, and no short cut either. The efficacy of an intelligence agency ultimately depends on policy, intention and determination. There can be no substitutes in order to accomplish aims. It must be remembered, fish rots from the head.

Courtesy: Indian Defence Review
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ANSWERING BJP ON KASHMIR NEED TO RECOGNISE THE FAROOQ FALLACY

Harish Khare.

The secular response to Mr. Murli Manohar Joshi's so-called Ekta Yatra from Kanyakumari to Kashmir has been truly bewildering. Bemoaning, denouncement and hand-wringing have been mixed in a predictable proportion. on his part, the Prime Minister has done the best he can do. He has called an all-party meeting where everyone indulged in unabashed BJP-bashing. The political affairs committee of the Union cabinet has duly met, as has the Congress working Committee without anybody being any wiser. Mr. Narasimha Rao has now announced his intention to call a meeting of the National Integration Council.

Real Cause

Meanwhile, Mr. Joshi's juggernaut continues. Those political leaders and forces who are inclined to believe that the BJP stands isolated also know that there is very little they can do to prevent electoral dividends coming Mr. Joshi's way. This is the real cause for panic, rather than the presumed assault on an already enfeebled secular edifice. However suspect and unpleasant may be the BJP objectives in undertaking this Yatra, its leadership has correctly sized up the lack of self-confidence and sense of purpose that has gripped the Congress as well as the rest of the mainstream political class. In fact, Messrs Joshi and Advani cannot be faulted for having perceptively noted the same all-round tiredness for the Nehruvian certitude, and a fondness for inane political pragmatism and cultural vacuity that enabled their party to arrive in a big way on the national scene in the 1989 Lok Sabha elections. Surely it will be rather churlish to denounce the BJP leadership for knowing its mind so clearly or for wanting to take advantage of its detractors' all too palpable loss of nerve and verve. After all, didn't the Prime

Minister at one point indicate that he was not entirely averse to accepting the BJP president's invitation to unfurl the national flag in Srinagar on January 26.

Admittedly having exhausted the electoral potential of the Ayodhya issue, the BJP leadership is now irresponsibly embarking upon another emotive campaign. The secular fear is not misplaced; the manner in which the Yatra has been conceived would end up raising the communal temper in the country but could be of no help in finding a solution to the Kashmir tangle. The Yatra certainly is not culculated to advance Kashmir's emotional integration with the rest of the country.

Whatever the BJP's motives, the party would be doing the political system a good turn if it could provoke the mainstream to find the collective courage and wisdom to understand correctly the genesis of the current problems in the Valley. For instance, those who see a parallel between Shyama Prasad Mookerjee's 1953 Kashmir march and the Ekta Yatra perhaps choose to ignore that in a way Mr. Murli Manohar Joshi is only finessing the strategy opted for by Mrs. Indira Gandhi's in the 1983 Jammu and Kashmir assembly election for tapping the nationalist sentiment, especially in the Jammu region. Therefore, bemoan as we must the BJP's misguided strategy of standing the concept of secularism on its head, we should ask why the BJP argument on Kashmir has acquired a certain degree of potency and cogency. And it will continue to find wider acceptance as long as the political system does not come to terms with the past in the Valley.

Unfortunately there is little evidence that the political class realises this need. Take, for example, the fact that the other day the Prime Minister felt compelled to attend a symbolic function organised by Dr. Farooq Abdullah in memory of his father Sheikh Abdullah. Perhaps the presence of Mr. Rao and other mainstream leaders like Gaini Zail Singh, Mr. Chandra Shekhar and Dr. Karan Singh at this Abdullah family show made sense only in juxtaposition with the BJP's Ekta Yatra. Yet this gesture betrayed our willingness to see that leaders like Dr. Farooq Abdullah are part of the problem. In fact, each and every proposal for revival of the political process in the Valley has somehow or the other hinged on Dr. Abdullah's readiness to return to the Valley to risk his life and limb.

The Congress leadership seems hopelessly trapped in this Farooq option because it feels that it owes him a favour for his connivance in Mr.

Rajiv Gandhi's patently partisan and short-sighted war of attrition against governor Jagmohan and the National Front government. whatever the Congress compulsion, an understanding of the hollowness of the Farooq option is absolutely necessary if we are to grasp the nature and extent of alienation in Kashmir which Pakistan has adroitly capitalised upon to produce a crisis of legitimacy of Kashmir's links with India.

The Fault

Without in any way questioning Dr. Farooq Abdullah's nationalist credentials, there is no escape from acknowledging that by and large the National Conference-Congress leadership merely provided a figleaf of respectability over the years to a small, fraudulent elite that singlemindedly siphoned off the enormous quantity of Central assistance to the valley. In the process both democracy and India received a bad name. It is immaterial whether or not we acknowledge that the 1987 elections were rigged extensively (as the Congress leadership is clearly unwilling to do so because it would not reflect well on the wisdom of its immediate past leadership). What must be acknowledged, at least in the privacy of inner councils, is that it was the anti-people attitude of Kashmir's malignant and parasitic political elite, from Bakshi Ghulam Mohammed to G. M. Shah — with the Central government knowingly looking the other way — that have produced dissatisfaction on so massive a scale that it is surprising that insurgency took so long to break out — with or without prompting from Pakistan. The problem, then, is not rooted, as the BJP would like to argue, in what it calls minorityism, rather it can be traced to outright contempt shown by all popular and secular leaders of every political hue for democratic aspirations and values in the Valley.

And since Mr. Joshi's Yatra does not address itself to this calculated disregard for democratic aspirations,it will no doubt add to the alienation of the Kashmiri Muslims from his Hindu rashtra, just as it will aggravate the minorities' sense insecurity in the rest of the country. Neither prospect will daunt Mr. Joshi's favour. This is based on a number of brutal calculations

Jagmohan Option

First, that the secular establishment by and large unfortunately chose to turn its back on the Hindu migration from Kashmir and, this failure has not added to the efficacy of the secular appeal in the rest of the country.

Second, that none of the so-called leaders of Kashmir enjoy any popular support and acceptability in the Valley. Consequently the country has to face the option holding the Valley, if need be, by sheer force. The only mitigating aspect of this depressing scenario is that the soft Indian state does not have the stamina or the necessary perversity to pursue the Jagmohan option to its logical conclusion.

The challenge then is how to ensure that Mr. Joshi is not able to find new converts to his diagnosis and simplistic prescription of the Kashmir problem. Unfortunately the liberal and democratic sensibilities have already got blunted, if not entirely brutalised, by our increasing reliance on the gun to command obedience, if not allegiance, in the Valley (and Punjab). If we have to extricate ourselves from this quagmire, we must prepare ourselves bravely to travel the democratic path. Our willingness to respect the democratic sentiment alone can garner legitimacy for continued links with the rest of the country.

The onus to evolve a national consensus on travelling the democratic path rests on the Prime Minister and the country. The Congress leadership may not be able to summon the kind of wisdom that prompted Mrs. Indira Gandhi to conclude an accord with Sheikh Abdullah in 1975 but it can easily avoid the hegemonic notions that forced her to backtrack on it. To begin with, the Congress must curb leaders like Mr. Ghulam Nabi Azad and Mr. Rajesh Pilot who would love to play the busybody in Kashmir. Nor must the Congress leadership make any linkage between any progress in Kashmir and its desire to prevent Mr. V.P.Singh from consolidating his Muslim support base. In other words, the Congress must not once again allow narrow interests to overwhelm its national perspective.

As soon as the security forces can create a reasonably secure environment, the political system must risk a credible electoral exercise in Kashmir. Neither the National Conference nor the Congress can be deemed to have a lien on the Srinagar Gaddi. We must be willing to respect the democratic will in the Valley. That commitment alone will help blunt the BJP campaign as well as break the back of Pakistani-abetted terrorism.

Courtesy: The Times of India, December 20, 1991.

JAMMU & KASHMIR CRISIS-I EXPLORING VIABLE POLITICAL INITIATIVES

Prof Ishwar Sharma

The State of Jammu and Kashmir has been the victim of political ineptitude not only of India and Pakistan but also of its own political leadership. It suffered because of the lack of understanding of its special position arising out of its location, Geography and demographic composition. Pakistan secure in its confidence as it held the potent ideological card, the Islamic card, felt that it had no use of the other factors. Kashmir was in its pocket. India, on the other hand, held the political card, the National Conference, Political movement card. The Political movement in Jammu & Kashmir which was spear headed by the National Conference Political movement card. The National Conference under the outstanding leadership of Sheikh Mohammed Abdullah, popularly known as Sher-e-Kashmir, could not, however, foresee the implications constitutional and administrative of accession to India in the changed conditions of partition and therefore failed to articulate appropriate response suiting the plural character of the State Polity. With the result that the National Conference failed to evolve an acceptable approach to its relationship with India.

With Pakistan, violently exploiting the religious factors and India feeling unsure of itself because of internal and external pressures and the National Conference failing to meet the challenges of internal discord posed by the facts of multi-ethnic character of the State and therefore, unable to give the state a democratic political and constitutional direction, the state became a victim of instability both internally as well as in its relations with India. The unfortunate part of the situation is that the old modes and attitudes still persist. We have even after witnessing the Collapse to the old policy frame work been unable to workout a comprehensive political policy package based on the realities on the ground. The consequences are therefore, for everyone to see. The uncertainties and the conflicts continue to dog our footsteps.

Factors Influencing the Situation on the Ground

A viable and valid approach to the current problems in the State can be build only on a comprehensive appreciation of the realities of the situation. The first and the most outstanding factor, which we can ignore at our own peril is the ethnic and cultural diversity of the State. The State as it stood on 15th of August 1947, was not only organic historical entity. Much may dispute it, the fact remains that the State was an aggregate of territories of diverse ethnicities grouped around the two core regions of Jammu & Kashmir. It came into existence as a result of the daring campaign of conquest undertaken for reasons of security and dynastic ambition. Fired by the opportunities presented by the confused political situation in the northern areas, the Dogra armies created history under Maharaja Gulab Singh and subsequently under his successor Maharaja Ranbir Singh displaying valour, military skill and doggedness of will of exceptionally high quality. In the process the Dogra fighting mettle threw up generals and military leaders of the calibre of general Zorawar Singh and Baj Sing whose military companies and achievements are to this day a matter of wonder and admiration for the world. This diversity of religious sects, racial and geographical identities was held together by the tenous link of common Dogra rule and guaranteed by the Suzerain power of the British Government of United India. That the State was never and is not even today a homogeneous entity but on the contrary a political and administrative unit comprising distinct geographic and ethnic regions is a fact which has to be given close consideration while a viable political initiative to defuse the crisis. An initiative which ignores an approach based on consensus amongst the regions has hardly any chance of acceptance and success.

The second aspect of the situation which is of equal great importance and relevance is the strategic position of the state sprawling along the north and north Eastern borders of Punjab and Himachel Pradesh in India and north and north Western boundaries of Pakistan and bordering such important and sensitive areas as China, erstwhile USSR and Afghanistan, the state commands strategically important routes into India and Pakistan. It is, thus, an area of Vital security concern to both of them. The security factor has added further complexity to the situation. The British who know the state and its special position too well could have helped in arriving at a satisfactory solution of the problem. But they had neither the time, nor the will to pull somebody else chestnuts out of fire and left the state a legacy and a challenge of their policy of divide and quit. Any initiative when formu-

lated has inevitably to keep in view the security interests of the concerned parties.

The third element of the situation on the ground is the existing division of the State along the line of actual control. The partition threat to the continuance of the state, as it stood on 15th of August 1947, as a single political unit. With the predominantly Muslim regions of the state bordering Pakistan looking to Pakistan for their future and the Hindu and Budhist areas of Jammu and Ladakh pulling in the direction of India and with National Conference leadership in Jail or externed because of its open revolt against the Maharaja's rule and thus unable to find its bearings in the changed conditions and provide leadership, the Maharaja tried to achieve a balancing act by waiting in the hope that the developing situation might some how come to his help and rescue him out of this predicament. Mr. Jinnah's ordering of his troops to march into the state under the guise of tribal raids at this crucial point of time was precisely the event that settled what had so far been defying all attempts at finding a solution. The veiled invasion of the state by Pakistan and the resulting accession of the State to India set in the process of the division of the State. The cease fire agreement under the auspices of the UNO extended legitimacy and international recognition to the fact of the division. The subsequent Simla Agreement, after the Bangladesh War, converted the cease fire line into line of actual control, thus setting the final seal of defuse acceptance of this fact by the two parties. The reality of division of the State into two parts will inevitably be the basis of any viable political response to the current situation.

There has during the last year or so emerged another related aspect of the situation which is because of media publicity being suggested as one of the options for the resolution of the crisis. It is being recommended that the state be re-united as an independent political unit. We must, however, face the facts as they are and be clear in our mind on this score. The state stands divided and that it is no longer missed that chance. Had the protagonists of Pakistan heeded the pleadings of Mahatma Gandhi for some common institutional arrangements for defence and the safety and security of minorities on both sides, the history of the State might have taken a different,turn. He had pointed the way, but we in our ignorance and arrogance had spurned to tread it. Let it be borne in mind that even at the best of time when the Maharaja's law united this group of territories of diverse culture and religion, the state had hardly been able to evolve a sense of belonging to a common identity amongst its people. There were no

commonalities of economic and political interests binding the people together and creating a stake in its continuance as a single unit. The reign of blood and terror that followed partition and the so called tribal raids violently uprooting thousands from their hearths & homes shattered whatever links had been developed during the short period of the Dogra rule. The people of Jammu and Ladakh, therefore, have no longer any commitment in favour of taking the clock back. Let us, therefore, face the facts that the old state of Jammu and Kashmir is dead and gone and no amount of beating can put this dead horse on its legs.

To sum up, the given realities on the ground can not be wished away. They condition and circumscribe any plan of action undertaken for resolving the crisis. The parameters are prescribed, what is required of us is to overcome their inhibitive fall out and formulate an approach that can safe guard the future of this ancient land.

Courtesy: The Kashmir Times, August 14, 1992.

JAMMU AND KASHMIR CRISIS-II NATURE, SCOPE OF POLITICAL INITIATIVE

Prof Ishwar Sharma

Having indicated the parameters dictated by the realities on the ground, let us, finally explore the nature of initiatives that can fruitfully be undertaken. In this context we shall have first to take cognizance of the harsh and unpalatable reality of the alienation of the people of the valley from the Indian mainstream. It may be argued that the present situation in the valley is an engineered situation, fomented, funded and controlled from across the borders. But this is not the whole truth. We have in India and in state also contributed to it by our acts of omission and commission. The political model that was set before the people, the institutions by which that model stood its ground, the Panchayat Institutions, the Municipalities, the legislature were all hijacked by a new class of people blinded by greed for power and pelf. The people felt that they had lost their autonomy and dignity. The political process which had closed all democratic options to the growing number of educated youth, sowed the seeds of disaffection and disloyalty. The mainstream political parties thus allowed an overall decline in the legitimacy and efficacy of the system and in sheer disgust and desperation the youth sought direction and purpose in the lap of fundamental thought and action.

The first step on the ladder to normalcy lies, therefore, in reviving the democratic political process. A special responsibility lies on the elites, the academics, the opinion makers, the teachers, lawyers, social workers and the political activists. They must make a determined bid to persuade the alienated youth to return to the democratic path for the achievement of the desired political goals. It is, no doubt, an uphill task, but a task of utmost importance. The youth must be made to realize that what they are doing is not in the ultimate interest of the people whom they seek to serve. The Gun may make them feel self-important but it will only create confusion, chaos

and misrule but it will not win them real freedom. They must be made to understand that the disruption of the present balance can only be achieved through Indo-Pak armed conflict which will spell a disaster of multi-dimensional power and engulf the entire sub-continent in a self destructive orgy of blood. They must not forget that what has given Kashmir special identity and a distinguished position is the legacy of liberal tradition and rich spiritual achievement vouchsafed to them by Islam as practised and preached by their sufi saints. Let them not gamble away this great heritage which has worked as a civilizing force through out the ages. Alongwith their interaction with the youth in Kashmir, this mediating forum will have also to intervene with the Government with equal force and determination for creating conditions that can carry conviction with the people about the sincerity of the state Government and the Government of India for meaningful dialogue with the youth. Once the people who could have been persuaded to sit around the table and start the process of negotiations, the state Government has simultaneously to dismantle the special security apparatus and the people of Kashmir to create conditions for the safe return of migrants with honour and in safety and security apart from lending credibility to the political process set in motion will also earn for the Kashmir activists the sympathy and understanding of the people outside.

A substantial overhanding of the administrative structure is another positive step that can help to instill confidence into the minds of the people. Local administration of proven merit and integrity if accommodated in decision making places in each region can make significant contribution in creating a climate of good will and mutual understanding. In the long run the entire gamut of administrative integration will have to be given a fresh look. In all honesty let us face the fact that the I.A.S. and I.P.S. bureaucracy in the state has failed to deliver the goods. Nor have they been able to live up to the expectation of the people with regard to efficiency, administrative skill and acumen and personal integrity probity. The decline of democratic institutions in the State and the absence of any local competition has resulted in a phenomenal increase in their power and authority giving them in the process the tone and temper reminiscent of colonial days.

Democratic Regional Arrangements

Before taking up the Indo-Pakistan dimension of the current crisis, it will be better if cognizance is first taken of internal inter-regional aspect of the situation such an initiative will facilitate smooth conduct of overall ne-

gotiations and also help in resolving Indo-Pakistan differences. The inter-regional distrust and discord have come handy to the successive governments the fears of the one have been played against, the aspirations of the other. Regional aspiration were given communal orientation. In Kashmir the urge for identity and autonomy was directed into communal channels. A feeling was sought to be fostered that it was a struggle of the Muslim Kashmir against the dominance of Hindu India. In Jammu, as well, the communal factor was constantly emphasized and exploited. It is therefore, an integral part of the new democratic political initiative that the emerging forces in the valley sit face to face with the representatives from Jammu and Ladakh and negotiate political and constitutional arrangements which can ensure to each region an effective degree of self-Government and self-rule. Once satisfaction has been secured on this score, the question of quantum of autonomy to the state as a whole will hardly pose any insurmountable difficulty. Greater autonomy to the state will get reflected in devolution of correspondingly greater power to the region.

Free and Fair Election

Once consultations and dialogue have started in all seriousness, for over all settlement of state and the regional problems, the next step on the agenda will naturally be free and fair elections. The peoples confidence in the ballot box is got to be restored. Peoples must get the assurance that the state and regional Governments set up as a result of elections will enjoy freedom and autonomy within the limits set by federal and secular polity. The elected legislatures will, at the same time, under take such amendments and modification of the state constitution as can give form and content to the new arrangements.

Negotiations with Pakistan

The stage has now been set for the conduct of substantive negotiations with Pakistan over differences on Kashmir. What Pakistan has now been insisting is that process of partition remains incomplete without the accession of Kashmir to the State of Pakistan. What Pakistan needs to realize is that any disposal of territory on the basis of religion will only open old sores and instead of bringing them together will violently push them further as under. A surgical operation of this nature can only be achieved by wading through the blood of the people on both the sides. Other options have, therefore, to be explored and a solution which can accommodate and recon-

cile the interest of the people on both sides in better and more realistic ways attempted.

Another hurdle that stands in the way of any meaningful dialogue with Pakistan is their perception about their identity and alignment. While nobody can quarrel with regard to Pakistan's desire to forge closer relations with other Muslim countries particularly countries of the West Asian region, what worries us here in India is that these relations are generally built up with a view to consolidate a Muslim power block to confront and contain India Pakistan sees itself as a part of the West Asian, Islamic fraternity and tries to disown its origins. Pakistan has therefore, first to rediscover its moorings as a part of the Indian Subcontinental mainstream. History of Islam in India makes it abundantly clear that Islam as it developed and spread acquired in the process significant Indian content. By all reckoning, Pakistan is a part of the Indian Subcontinent and has therefore, to formulate a role for itself in keeping with this historic fact. Realization by Pakistan that its destiny and future is linked together with India will automatically accelerate the process of normalisation of relations between the two. The intervention of intellectual elites, journalists historians, writers and artists and other men of understanding and good will on both sides can through mutual interaction hasten this process. A good beginning has already been made and meetings directed to this end have already taken place in India and Pakistan. What is called for is a broader base for this kind of activity, a greater intensity of purpose and a greater dedication and will. The state Government can also lend a helping hand in this direction by prevailing upon the Indian Government to help it open lines of communication with the part of the State on the Pakistan side. Free movement of men and material will help to mitigate the irritations of division and result in a better climate for opening avenues of peace.

The moment hostility and distrust are taken away, the other steps will not present any significant difficulty. The first and the foremost step on the way of mutual peace and understanding will be the demilitarisation of the Indo-Pak border. The armies on the two sides can be taken back to their barracks in the rear, the borders entrusted to the Border Security Forces and countries opened to each other. Pakistan will thus be in a position to have free access to Kashmir and other parts of the Jammu and Kashmir State and the people on this side provided with the same facility in respect of Pakistan. The old ties which had been submerged in the hostility of partition will rise to the fore again. Further given the political will and mutual commit-

ment, it should not be beyond our intelligence to devise an institutional framework which can enable the two countries to have mutually agreed common perspectives with regard to defence and economic development without the loss of their sovereign and independent status. The bonds of culture, language, religion and social ethos will immediately come into operation and provide a stable basis for such a programme of action. In due course of time these arrangements will naturally get extended to cover the entire SAARC countries culminating in the establishment of a common wealth of independent SAARC countries patterned after the Russian experiment and its field of operations modelled after the European Common Market. The Sub continent will no longer remain divided and Kashmir will no longer be a bone of contention between the two. This perception of our future based on our common heritage, common history and civilization can give a construction direction to our common endeavours and initiatives. We have had enough of conflict and discord. Let us now work together in common effort for peace and well-being of the region.

Courtesy: The Kashmir Times, August 15, 1992.

KASHMIR PROBLEM: WINNING PEOPLE BACK

M. P. Khosla

In another few months, active militancy in Kashmir will be completing five years and no solution is visible even on the distant horizon. There is a plethora of writings on Kashmir and this article by one who has spent much of his life in Government services in Jammu and Kashmir at responsible levels including the stewardship of the State administration may not be out of place.

Various approaches and solutions are being suggested. On the one hand, there are those who demand changes in the ethno-religious composition of the population of the State as well as ruthless suppression by naked force whereas at the other end of the spectrum are those who can be satisfied by nothing short of a change in the political geography of the subcontinent. Fundamentalists of both the hues go on digging their own trenches deeper and deeper.

It is generally forgotten that the first regular insurgency much after the 1947 tribal invasion occurred in Kashmir in 1965. There has been a gap of nearly a quarter of century between the first guerrilla warfare experiment initiated by Pakistan under Ayub's rule and the present militancy. Mao Zedong, the pioneer in this field, has said, " guerrillas live on civil population as fish in water." The 1965 guerrilla experiment failed even before the outbreak of Indo-Pak war in that year for the simple reason that, although among the civilians there was sympathy in limited sections for the Pak-trained guerrillas, there was no widespread support. How is it that in spite of enormous amount of developmental expenditure and after passage of quarter of a century, the same people are now actively nourishing insurgency and terrorism? In other words, after a quarter century of (mal) administration

and local political leadership which has failed the people of Kashmir, India is confronted with an infinitely more complicated situation.

The National Conference-Congress Cabinet, which came into being after the elections of 1987, was set afloat on a sound basis only in the conceptual sense. There was the Rajiv-Farooq accord at the national level and what is known as "the Double-Farooq accord" at the State level because the agreement at the national level meant drawing the Chief national party and the chief regional party together for integrating other elements in the political mainstream. The Double-Farooq accord was meant to knit into the same fabric sizable sections in urban areas of Kashmir who traditionally owned allegiance to Maulvi Farooq's family line. Where this failed was in the composition of NC-Congress Cabinet as the best elements from both the parties were not included in it. Had this political executive not failed the local people, there was no question of involvement and sympathy of the local people with any die-hard elements or foreign trained terrorists.

It would be helpful to recount here the basic demographic break up according to religion. Of the total State population of about 60 lakh, the Muslims account for 64 percent and Kashmiri Muslims are nearly 30 lakh i.e. about 50 percent. In the valley, the population of non-Muslims is about one and a half lakh only (including migrant Kashmiri Pandits) as against a total population of over 31 lakh for the valley.

As for the Jammu region, of the total population of about 27 lakh, there are about 8 lakh non-Hindu as against over 19 lakh Hindus. Another feature is that in Jammu the districts of Doda, Rajouri and Poonch have nearly 60 percent to almost 90 percent Muslim population. Poonch was previously one district but was later bifurcated into two districts of Poonch and Rajouri, both of which have a predominantly Muslim population. In the Muslim majority Doda district, Kishtwar Tehsil is 80 percent Muslims, whereas the Doda sub-division is almost evenly divided between two communities (the Muslims per-centage is 52) and its third Tehsil Bhadarwah has a Hindu Majority of 70 percent.

Ladakh, the biggest region of the State area-wise, has a total population of only 1,34,000. Of this the Buddhists are in a majority i.e. about 54 percent against 46 percent Muslims. Originally one district but, after the 1973 accord, it was bifurcated into two districts with a Muslim majority district of Kargil where Muslims are 77 percent as against the Buddhist who

are 22 percent. In Leh districts the Buddhists are 85 percent as against 15 percent Muslims.

Thus, we have a very varied kaleidoscope in all the three regions of the State. Communal hatreds do not run deep in Jammu and Kashmir. In fact, various communities cherish and stake pride in their common heritage. It is only in the last decade or so that communal fires have been stoked by motivated elements.

No "plan", "policy" or Package" can be successful unless it is rooted in the soil. There has to be not only a regional but also a sub- regional approach. Any political solution which hands over power to a particular group of people or to a few persons would be very tenuous indeed unless it is interwoven and enmeshed with all sections of population in the three regions of the State. One suggestion bearing earnest consideration is that, in order to correspond political reality with the varied communal composition in different parts of the State, it is essential that a truly democratic system some what on the Swiss model may be introduced.

There should be cantonisation and sub-cantonisation in accordance with the composition of the population in different areas. Such structural changes in the State polity would go a long way in decentralisation of administration as well as have highly salutary effects on political environment. In other words, give each canton or sub-canton a sort of Article 370 feeling. Such a network, of effective local authority has much better chances of success, with full delegation of funds for developmental schemes which should be administered by directly elected leaders for the empowered sub-units, pulls and pressures and inter-communal links with other areas would be minimised.

There should be a sort of confederal structure of the three units of the State so that spill-over of any conflict in one unit will not have much influence on the other unit. Working out the modalities of such a scheme by association of people with local influence from all areas of the State is essential.

Courtesy: The Hindustan Times, April 26,1993.

POLICE REVOLT AND AFTER INTRIGUING COINCIDENCES POINT TO PAKISTANI DESIGN

O. N. Dhar

The police revolt in Srinagar which rocked the ramshackle state administration and made international headlines for almost 10 days at a crucial period in India's campaign against Islamabad's proxy war, can be said to have proved yet again Pakistan's capacity to escalate the situation in the strife-torn valley almost at will.

On April 21, the CIA Chief, James Woolsey, told a Senate Committee considering terrorism that "Sudan and Pakistan while not yet on the State Department's list of terrorist states are on the brink of inclusion". According to agency reports of Woolsey's testimony, "Last January, the US warned each of these countries that it could soon be listed ... As for Pakistan, it has supported the Kashmiri and Sikh groups which have been waging long-running insurgencies against India's central government.

The foreign Ministers of the countries of the Organisation of Islamic Conference considered on April 27, the OIC Secretary general's recommendation for' "sanctions" against India — an objective which Islamabad had relentlessly been pursuing for the last four years without any significant success. Astute diplomatic moves and appeals in the name of Islamic solidarity in support of Kashmiri Muslims' "determined struggle for their right of self-determination" had over the years failed to induce the OIC to come out openly against India and in favour of Pakistan. The meeting in Karachi was of vital significance in the Pakistan effort. For, if the Foreign Ministers prevaricated on the OIC secretary-general's recommendation and failed to pass a resolution against India, the prospect of such a resolution being passed in the foreseeable future would be remote. This was Islamabad's fear.

In other words, it was a crucial time for Pakistan's diplomacy on Kashmir and, concurrently, for its effort to stave off the U. S. threat of listing the country as a terrorist state. On April 22, Kashmir burst into headlines on international TV and radio news networks with reports of the men of Kashmir Armed Police laying siege on the police control room in Srinagar and exchanging fire with the crack commandos guarding police officers. On April 23, these men joined by members of the fire brigade, traffic and other police units — using government trucks and vehicles and waving guns — were shown marching to UN Observer's office at Gupkar to present a memorandum against"State terrorism, repression and custodial deaths". Islamabad's diplomatic and publicity offensive against India received a tremendous boost riveting world attention on happenings within the valley and away from charges of Pakistani support to terrorism and insurgency.

In Srinagar meanwhile, top police and civil administration officers were busy in fruitless negotiations with the mutinous policemen. All persuasion and even an abject surrender to their demand for action against a highly competent police officers, Rajindran, (whose instant dismissal and arrest the ringleaders were calling for) not only failed to satisfy them but encouraged them to hold under siege senior officers in the police control room itself. The siege was lifted and the situation brought under control only on April 28 through a skillful army operation in surrounding and disarming the unruly men. It redounds to the credit of the officer commanding the operation that a difficult objective was accomplished without firing even a single shot. The mutineers surrendered meekly but manipulators in Islamabad were able to achieve their goal of persuading OIC Foreign Ministers to pass a resolution against India for the first time and of inducing second thoughts in the US State Department in its contemplated action to declare Pakistan a country supporting and encouraging international terrorism.

Could the Srinagar revolt by the Kashmir Armed Police and its defiant march in hundreds to UN Observers' office and almost simultaneously the meeting of OIC Foreign Ministers in Karachi be coincidental? Coincidences can always occur but the eruption of the police revolt coinciding with a crucial Islamic meet in Karachi as also with a decisive phase in U.S. determination of fresh entrants to the list of terrorism-supporting countries is evidence of remarkable fine-tuning.

Be that as it may, latest reports have it that a high-level screening committee is at work in Srinagar to examine records and the role of some of the ringleaders of the police revolt. About 80 constables have been dismissed and a commandant suspended. However, there is even now no tangible indication of the authorities delving deeper into the root cause of the malaise. The reluctance is understandable because what would be at issue in such a scrutiny of events and men is the basic policy of police recruitment in Kashmir since 1973 when open allegations were made that in a bid to appease the fundamentalist Jamaat-i-Islami hundreds of its followers were being recruited to raise new formations — primarily in the armed units. The main charge then made was that in a total reversal of the time-tested police recruitment pattern followed in the 50s under the late Bakshi Ghulam Mohammed's stewardship of the state and in the 60s during G.M.Sadiq's rule, known and committed Jamaat men were being recruited in total disastrous consequences of this recruitment policy surfaced in 1982 when a powerful police union emerged against all rules and procedures laid down in the Police Manual.

That the Central Government felt least bothered about the consequences of the changing pattern and complexion of police recruitment in the highly-sensitive border state was fully demonstrated in 1990 when, even after the eruption of Pak-inspired insurgency in the valley, the Janata Dal government at the Centre resorted to raising of new police formations in order to achieve what was euphemistically described as" a reoriented employment pattern in Kashmir" aimed at providing more jobs to local youth and bringing the people "into the national mainstream".

Refusing to learn any lessons from the past or from the harrowing experience of the police revolt, the Government of Narasimha Rao is following the very same policy. A major, component of its much-touted new package for the valley is to create avenues of employment through recruitment on a large scale of "aspiring unemployed youth" into not only the state policy formations but also in BSF, CRP and ITBP. No one in the Prime Minister's office or the Home Ministry seems to be concerned about the fallout of such indiscriminate recruitment in terms of loyalty and discipline of the police force of the beleaguered state.

Courtesy: Indian Express, May 27,1993

DAUNTING GLOOM, SHEER HELPLESSNESS AND POLITICISATION

Syed Tassadque Hussain

Kashmir the Valley of murder and romance, the Valley of alluring verdure, the Valley of sunny halcyon days. the Valley of wildly enchanting star-studded balmy nights, the valley of long indolent summers of sweet zephyr that lulls you to dream, of fragrant flowers, of lush green gardens, of fruit laden orchards of deep hued emerald lakes of fast flowing bubbly brookes, of noisily mountainous streams, of myriad conical hills, of magical forests seems to have been transmogrified by the unseen hand of destiny into a seething abandon of despair

A stabbing feeling of highly daunting gloom and sheer helplessness envelops the valley. The environs seem to be absolutely sepulchral and provide an ideal work-material for immense mythogenesis to the imaginative local populace that by disposition and temperament is mythist. So myths galore abound in this valley transforming everyday life into a life of mystery, of obscure myrio-ramic events. of eddying kaleidoscopic patterns, of incomprehensible social phenomenons, of totally mystified situation that defy comprehension making commonplace mundane affairs appear deceptive like obscure responses of demi-reps accosting customers on the streets.

The current situation is utterly confusing and highly confounding like the wails of shrewish wives or the incredible excuses of crack-credit, good for nothing, inarticulate, stinkard husbands. In such a scenario variety is the first casualty. To reflect exact variety is as arduous task.

With some terminological exactitude one may venture to make the commentative remark that an eerie feeling of lacerant times is reflected by streets and lanes that are derelict the bazaars in the downtown that have given a short shrift to the customary hustle and bustle, in the uptown the

marts crowded with unlacquered shops, the posh street corners gloomy with drab kiosks, the huge houses without any face- lift and to cap it all, to make the picturisation complete, the innumerable concrete bunkers dotting the pavements compel the onlooker or even a lack brain to meditate the reality.

The reality is not all flattering. The paramilitary forces circumambulate the streets, the alleys and the by-lanes around the clock. The mobile police patrols ply the roads with regularity and precision of clock work. One can see the brass hats, gun slinging, mount the vigil with great perplexity radiating from their weather beaten visages.

At the moment the whole city seems to be one big battlement. The inhabitants display a besieged mentality. No body high or low seems to be secure.

Passers-by are stopped at random by the cops, repeatedly frisked, often paraded for identification in front of masked informers and when found innocent are sometimes subjected to indignities and greeted with filthy abuses by the irate soldiers.

This does not daunt the victims who feel happy that the oppressors are characteristically defeatist in attitude. This provides a glimmer of hope to them and they forget to rue their fate, their misery, their plight. On the contrary under some psychological impetus those who suffer these indignities construct exaggerated cram-stories about the soldiers, always loudly blaming the demi-urges in the heaven for their vicious creativity that has made the life harrowing. Some blame the fate others admonish to accept the destiny some attribute the trying times to becondign punishment for committed and uncommitted sins. Some proclaim that the love of the mundane has incensed God. Almighty in the heaven who in divine wisdom has replaced the ecstasy of yester-years with sheer disorder of the present day. So the people are to blame themselves if administration has ceased to exist and even-handed justice has become past history. If laws do not operate the fault is of the destiny. The whole population seems to have turned fatadic. Everybody makes a prophesy about the future and finds a special glory in superb story telling about the ancient past and the bygone days, sermonizing the audience with grave solemnity. The truth, however is that the mighty state of yester-years is in a state of fast evanescence. This is indeed a sorry state of affairs. The cockatrice of anarchy has been let loose by the state machinery itself and is now sucking up with gay abandon last remanents of established order.

The religious dogmas have become strident like prickly gorse and in urban areas are being taught by traditional clerics who are despised by the revolutionary youth brimming with new ideas. The revolutionary youth who have suffered the coction of violence have very little faith in the traditional clerics. They want to re-orient the religion, give it a new direction, meaning and content. To make people aware of their responsibilities to the new order. The cenobium of traditional clerics is mortally afraid of this change. Sooner or later the people are bound to revolt against the old order.

The older generation has become scared as it has already been knocked into a cocked hat. They have defensively cocooned themselves in the safety of their homes, and insulated themselves from the fast changing social process.

The sequel is that the hiatus between the 'crabbed old age' and the youth is every widening. In fact there is total non-communication between the two.

The middle generation is pessimistic in outlook and believes it is heir to disaster that is inevitable, impending and looming large on the horizon. It is utterly muddled about the changing social climate, has totally run out of ideas, and wants to cling desperately to status quo. It has neither the will to revolt against the inequities of the past order nor the inclination to welcome the unknown future. The middle generation is the real victim of the ongoing evolutionary process. It is creaky in the joints and paunchy under the belt frustrated and completely helpless.

Only the youth feel optimistic and believe that out of disaster shall emerge sphinx like a resplendent new order. He is engaged in the fearsomely dogged epic of survival and is convinced his country will fulfill the promise and the bold premise of emancipation. This faith gives him strength. This faith gives harmony to the vibes within, rhythmic with fugal precision. He wants sweeping changes, is always in hurry and one gets an impression that Chinese cultural revolution of the sixties and early seventies is being repeated in Kashmir. Everything associated with the old political order is being considered a rubbish heap of the past. The revolutionary youth drawn from lower middle class families is too impetuous rubbishing ancient ways. To achieve this social transformation, religious revivalism has been pressed into service. Secularism is scorned as trash paltry and highly rubbishy. The youth the herald of the new order, is animated with ardent religious zeal and

appears to be more ruder, more bolder, more determined and more eager than ever before and impatient to a degree of being ferocious for a quickpace, rudegrowing, wild culture change.

This zeal is manifested by overt facts, like, overnight mosques have mushroomed in lanes and by-lanes even in far off villages. Most of the new Molvis who lead the congregation in prayers are in their twenties and well versed in the manners of the town. The five time call of the Muezzin during the day is faithfully honoured by the majority of the population. From the pulpits in the mosques fiery preachers admonish the gathering to pass the rubicon or face eternal ruin by avoiding to seek God.

The people respond to these speeches with a sense of new awareness. The social transformation in the Valley can be measured by the way the rule of law has given way to the rule of the faith. This is evident that in the teeth of permissive laws the numerous liquor shops in the town have closed down. Video parlours have apparently vanished from the streets. Beauty parlours likewise have ceased to exist. Cigarette smoking is no longer considered fashionable. Even the wearing apparel of the ordinary people looks more Islamic. Khan dress and Pheron have again gained popularity in this crisis laden city. Women have again veiled their faces. One must however grudgingly admit the fact that illicit trade, drug trafficking and smuggling still exist clandestinely and are being carried on now in a highly rumgumptious manner. Another striking feature of this sea change is the fact that most of the run about of yester-years have now conned the mantle of reformers and have become the heroes of the current day. They have become most effective instruments of this social change.

In the Valley it is the youth that enunciate the policy. It is the youth that untrammelled executes this policy. If the youth that enucleates the religious dogmas in a stunning style that would put the traditional clerics to shame. The most notable feature of this youth movement is that the youth unlike the traditional cleric is not entreative but dictates his views with brimming confidence. The entrancement of Islamic Organisations has proved the greatest entrapper of the youth. Religion is no longer an individual matter but a public affair of great signification. Public speakers skillfully use Koranic passages to illuminate political themes. They emphasise that religion must always be wrapped in water-tight compartments. The new demands of life only expose the need to follow religion to acquire a vibrant spirit of freedom. New religious organisation are deeply rooted in rural Kashmir.

In the Valley all other political parties are out at heels. At the first thunderclap of the movement for Azadi, most of the traditional politicians, considered it prudent to show a clean pair of heels. Even the grass root cadres of the Pro Indian outfits publicly dis-associated from politics. The more discreet adopted mutism as the best policy commensurate with the trying times. Some veterans of many political battles now express their opinion in ambivalent words wrapped in hypocrisy. One thing however is apparent that ordinary faceless people have become highly politically conscious. Everybody who is even a semi-literate reads the vernacular press ardèntly. Others who cannot read or write tune to BBC and VOA for obtaining authentic information. No body gives any credence to the news bulletin of All India Radio or Doordarshan. Street corner political discussions have become a habit. In fact every mutton head in this town has become an astute political forecaster. It is quite another matter that most of these prophesis come a cropper.

This does not in the least daunt the pampered forecasters to claim to be 'know all' and they often proclaim in a trice. They can cut the knot and resolve the Vexed Kashmir tangle slapdash. Discourse on international affairs is such a popular hobby that even street Arabs and knight of industry, footpads, parley vociferously about political problem while knocking about the streets.

The new breed of shopkeepers do not ballyhoo their artifacts to their customers but with a sense of knowableness compose arguments is style and induce the hapless customer to buy some commemorative trinket from the shop, which they believe is the last citadel of revolution in this town. Taxi travel has really become amusing. The affable taxi drivers talk nothing but politics exhibit political skills and speak about the subtle art of negotiation which they claim could be ufilized by the Secretary General of the United Nations to bring to the negotiating table the arch contenders India and Pakistan. The Secretary General is indeed a looser for not being a commuter in one of such taxis.

The waiters in the hotels have become extrovert. They tell you that in the crisis laden town a crisis has suddenly blown up from nowhere but they alone know the nostrums to the malady. They assure you with great aplomb that negotiations may falter, frustrations galore may set in, but they alone hold the key to the ultimate salvation of this Valley. The village school master, the consummate pedagogue, with scowls on his temple reflecting

the solemnity of Mikhail Gorbachov and gravity of George Bush dangles before the audience of impressionable alumnus unlarded solutions to the Kashmir tangle. The valley is so much politicised that lawyers, doctors, beauracrats and all those who matter, and even those who do not matter, claim to fetch out a feasible solution to the Kashmir problem. The only people who do not talk about politics are the traditional politicians. One only pities them, for these miserable wretches to their chagrin, have found themselves imperceptible case down in the frash can of history. The cruel irony inherent in this situation is that New Delhi equally enjoys the pitiable plight of these wreched of this Valley.

Courtesy: The Kashmir Times, August 4,1992.

ENDLESS AGGRESSION PAKISTAN'S CONTINUING ATTEMPTS TO GRAB KASHMIR

Jasjit Singh

For the third time this year, the line of control in Jammu and Kashmir is under pressure and a threat of mass crossing by Pakistan. Starting with the crude attempts in February 1990, Pakistan has brought greater sophistication and finesse to bear on its actions. The Pakistan government continues to maintain that it is trying to do its best to defuse the problem, but lost touch with the leaders of the march.

The Prime Minister of Pak-Occupied Kashmir (who first threatened to cross the cease fire line as early as 1954) has stated that his government is not responsible for maintaining the sanctity of the line of control and therefore, will not take action to stop the crossing. The only bright spot is that the Pakistan People's Party wing has pulled out of the threatened march. But we need to remember that the present attempt is part of the ongoing war that Pakistan started 45 years ago in September 1947.

The question that must be asked is: What is Pakistan's locus standi in J&K State? The only way Pakistan comes into the picture is because it has been committing a series of aggressive act as part of its expansionist policy. The first phase of its aggression was before October 26, 1947 when it launched an offensive against that at the time was the sovereign state of J&K. This was done in spite of its standstill Agreement with J&K to maintain status quo. A well researched book by a renowned Pakistani scholar Ayesha Jalal, The State of Martial Law, 1990, has asserted that Khan Abdul Qayum Khan, the then Chief Minister of NWFP carried the principal responsibility for the invasion. And initially Pakistan army was not used "because of severe shortage of arms and ammunition", but officers were "conveniently on leave

from the army" to lead the fighting. This was followed by regular army invasion. Pakistan claimed that the army was inducted in May 1948 but it failed to inform the UN Security Council as required by the January 17, 1948 resolution.

There have been a series of aggressions since October 26, 1947 which underwent some changes after July 1972 when the Simla Agreement was signed. The most recent one is the proxy war launched on July 31, 1988 and intensified in December 1989. The United Nations — whose resolutions Pakistan keeps harping about — in its resolution of August 13,1948 unambiguously required Pakistan to unconditionally with draw from J&K. India on the other hand was to maintain its presence by virtue of the State's accession which was, and remains, legally and constitutionally valid and final. This is why Pakistan has to continue the facade of an "Azad Kashmir" although it quietly annexed a large part of the State as its "Northern Territories". The UN had clearly stated in 1948 that the northern areas would remain under the jurisdiction of J&K (and hence India). Incidentally, this is why Pakistan can have to legitimate claim in the Siachen area. Even the Sino-Pakistan agreement of 1963 on the borders recognises that Pakistan did not have the right of sovereignty in the area.

The problem, of course, is that even Prime Minister Nawaz Sharif perpetuates the farce that the UN resolutions are applicable only to the Indian side of the State. In 1972 India made a major concession in the hope of achieving durable peace when under the Simla Agreement it was agreed to treat the line of control as the de facto border. This was a way of settlement of the dispute although it did not alter, the basic facts.

Under the Simla Agreement Pakistan is committed to "refrain from the threat or the use of force in violation of this line". It also agreed not to "alter it unilaterally irrespective of mutual differences and legal interpretation". Its political, moral and material support to militancy and separatism in J&K violates the Simla Agreement. As it is, Pakistan's record of honouring its international agreements has been very poor. There are differences and tensions since the aims and policies of different sections of the elite controlling its power structure. But the Pakistan government cannot be absolved of its responsibility on these grounds. The argument that many sections are operating autonomously cannot be accepted as an excuse. Pakistan's failure to govern itself and keep its state and non-state actors under control, especially from launching aggression and sponsoring terrorism

against a neighbouring country, is not consistent with its obligations as a member of the UN.

It is in the background that we have to see the current effort at escalation of conflict. It is important to remember that in the current phase of its aggression, Pakistan has not succeeded in its objective. It has basically three options: escalate, continue the proxy war, or de-escalate. Having adopted the hardline aggressive position, and given the domestic political dynamics, de-escalation would not be easy. At this stage, even a bilateral dialogue with India would be a way out for Pakistan. And hence the tentative suggestions when its Foreign Secretary came to India in August. A serious dialogue with Pakistan would be desirable, but only if Pakistan genuinely seeks a just solution. It must, therefore, demonstrate its commitment to the Simla Agreement before any meaningful dialogue can commence.

On the other hand, Pakistan may continue its proxy war and even escalate it for its own reasons. India must respond to the situation as it evolves. But alongwith crisis management, we have to work out a long-term strategy. At one level, a politico-diplomatic thrust must be actively pursued to highlight the basic facts relating to J&K State. The international community must be reminded that Pakistan's invasion and annexation (even if partial) of J&K is no different from Iraq's invasion and annexation of Kuwait in 1990. We do not except as US-led coalition to come and do the fighting for us. But a clearly-understood position based on international law is fundamental to a durable solution.

Secondly, Pakistan's support and sponsorship of trans-national terrorism must be acknowledged by the international community and appropriate action taken. The United States has already cautioned Pakistan on this issue. US move to get the Afghan Mujahideen to return weapons supplied to them is a step in the right direction. Since the conduit for supplies was Pakistan (especially its ISI) and more than 60 per cent weapons siphoned off by Pakistan, the US should in fact be taking stock of weapons supplied to Pakistan and their return so that capabilities for violence are reduced. The international community must persuade Pakistan to positively withdraw from transnational terrorism and militancy for the sake of peace and stability in the region.

It is indeed surprising that in spite of sponsoring terrorism Pakistan is being elected to UN Security Council membership for two years starting

January next. Lastly, we need to work out a long-term strategy and solution to the problem in J&K. Serious thought needs to be given to a high level of autonomy to J&K within the Indian Constitution. Vacation of territories occupied by Pakistan since 1947 would be a prerequisite for a unified J&K State to achieve the status of an autonomous republic within the Indian Union, with well-defined mechanism for protection of the rights of the majority and the minorities in the State.

Courtesy: Indian Express, October 29,1993.

THE FATE OF KASHMIRI PANDITS

M. V. Kamath

Kashmir Belongs to the Kashmiri Pandits, The original inhabitants of the State -- and not the Muslims, just as Kuwait, or Oman or Bahrain which have non-Muslim majoriities belongs to the local Muslims because the latter are the original inhabitants of the area

An international conference of Kashmiri Pandits was held in Delhi in the last week of December 1993 to focus the attention firstly of all Indians and secondly of the world beyond,on their present fate. And what is their fate? Their fate is to live as refugees in places outside the Vale of Kashmir which has been their ancestral home for centuries, in make-shift tents. braving the cold in winter and the scaring heat in summer with no proper sanitary facilities and less medical attention. Organisations like Asia Watch while raising howls about the difficulties of Kashmir Muslims, make no more than passing reference to the inhuman brutalities with which the Muslim terrorists have been forced to flee their homes under threat of death. The terrorists have indulged in the rape of women and the killing of men in the best style of invading Muslim hordes of the Middle ages. The latest incident is the shooting down of a hundred- year old Kashmiri Pandit in Wanpora in the first week of June 1993. In what way an aged man could have menaced Islam only the terrorists can tell. The Kashmir Government is silent on this as on other reckless murders. The Government of India is embarrassingly silent. Nobody wants to speak out lest their secular credentials are questioned by anyone. In 1941, according to census figures, Muslims formed 83 per cent of the population of the Vale of Kashmir and Hindus 15 per cent. In 1991 Muslims form 97 per cent of the population and Hindus 0.1 per cent.

Ethnic cleansing is complete. Aurangzeb would have been proud of the Muslim terrorists for the splendid work the latter have accomplished in the last four decades. According to a booklet published by the Kashmiri Samiti on human rights violation in Kashmir, the terrorist killings have been accompanied by torture unheard of in the annals of human history and includes strangulation by using steel wires, hanging, impaling, branding, with red hot irons, burning alive, lynching, gouging of eyes before assassination, dismemberment of body, dragging to death and just plain slaughter. The booklet gives details including the names of those killed and the dates details including the names of those killed and the dates they were killed. The Government of India is free to challenge these facts and if they are untrue, this should be publicised. If they are true, we need an explanation. According to the booklet "the (Kashmir) State Government is yet to disclose the identity of about 400 dead bodies recovered by the police and disposed of at its will". The booklet accuses the State Government of an attempt "to cover the anti-Hindu character of the terrorist violence and has tried to play down the massacre of Hindus". It is true that the terrorists have also killed Muslims not in their good books. Total civilians so far killed number 2,256 in five years (1988-1992) for which figures are available. The majority, of course, are Hindus — Kashmiri Pandits. The unpleasant fact about Kashmir and its terrorist faction is that the crusade is to merge the State with Pakistan and drive every single Hindu out. Already the ethnic cleansing is almost complete. The brunt of hatred has been borne by the Kashmiri Pandits who have been denied elementary human rights. But to this date the fate of the Kashmiri Pandits is of no concern to anybody.

But let it be said clearly and precisely: Kashmir belongs to the Kashmiri Pandits, the original inhabitants of the State — and NOT to the Muslims, just as Kuwait, or Oman or Bahrain which have non-Muslims majorities belong to the local Muslim becuase the latter are the original inhabitants of the areas. Islam came to INdia only in the 12th century. That a good number of the original Hindus were forcibly converted to Islam does not hide the fact that the background and the past of all Kashmiris is Hindu and should be recognised as such. The list of distinguished Kashmiri poets and scholars in Sanskrit from the Vedic period right on to the 12 century is long and impressive. The list tapers off following the advent of Islam in the Vale.

To say that Kashmir is Muslim is a negation of history and a pandering to the whims of the neo-historians. Kashmir was, is and shall remain

essentially Hindu and cannot be permitted to go into the hands of Pakistan for the last traces of Hinduism to be wiped out for ever. That is why the Kashmiris have been asking for a "homeland" of their own. That homeland can only be in Kashmir, not in Dandakaranya or somewhere in the wilds of Madha Pradesh. And there is nothing fanciful in the demand of the Pandits. If jews in their diaspora could dream and fight for a Jewish state two thousand years after they were dispersed in the four corners of Europe and get the support of modern states like Britain, France and United States and other smaller nations, there is no reason why Kashmiri Pandits should not ask for a homeland here and now, while their status as refugees is temporary. There is an attempt made by our "intellectuals" to fob off the Kashmiri Pandits with false promises by saying that, why, of course, they could get back to their homes they were forced to vacate when the Kashmir issue is "settled". Nobody asks the question.

Settled how? Or when? Or under what conditions? They are not consulted when the foreign secretaries of India and Pakistan discuss the socalled "Kashmir Question" as if their fate is of no moment. Are they destined forever to live as refugees at the mercy as much of a callous government as of a callous class of "Intellectuals"?

There can be — and there should be — no Kashmir "settlement" without the guaranteed return of the Kashmiri Pandits to their ancestral homes. And even that is not enough. The State should guarantee that they will not be treated as second class citizens as has been the case these last four decades. They cannot be left to the tender mercies of ex-terrorists and their ilk. One can be sure that if Pakistan has its way, there will be no place for Kashmiri Pandits in Kashmir, which their legitimate home. Under no circumstances should this be allowed to come to pass. Islamic terrorists should not be allowed to get away with murder. To support Kashmiri Pandits in their just cause — which is demand for a homeland — is not communalism. Conceding that Kashmir is "Muslim is reverse communalism". Kashmiri Pandits have a sound case and it should be presented in every international forum. The Government has to stop being defeatist. Kashmir cannot be given away to Pakistan, nor can it be handed over on a platter to Islamic fundamentalists. The safe return of the Kashmiri Pandits to their ancestral homes is — and should be — the special responsibility of the Government of India which cannot be dodged or made slight of Kashmir is the homeland of the Pandits — and so it will remain.

Courtesy: Organiser, January 23, 1994.

APPENDIX - I

THE INDIAN CLAIM TO JAMMU & KASHMIR A REAPPRAISAL

Alastair Lamb

The formal overt Indian intervention in the internal affairs of the State of Jammu & Kashmir began on about 9.00 a.m. on 27th of October, 1947, when Indian troops started landing at Srinagar airfield. India has officially dated the commencement of its claim that the State was part of Indian Sovereign territory to a few hour earlier, at some point in the afternoon or evening of 26 October. From their arrival on 27 October, 1947 to the present day, Indian troops have continued to occupy a large proportion of the State of Jammu & Kashmir despite the increasingly manifest opposition of a majority of the population to their presence. To critics of India's position and actions in the State of Jammu and Kashmir, the Government of New Delhi has consistently declared that the State of Jammu and Kashmir lies entirely within the sphere of internal Indian policy. Do the facts support the Indian contention in this respect?

The State of Jammu & Kashmir was a Princely State within the British Indian Empire. By the rules of the British transfer of power in the Indian Subcontinent in 1947 the Ruler of the State. Maharaja Hari Singh, with the departure of the British and the lapsing of Paramountcy (as the relationship between State and British Crown was termed), could opt to join either India or Pakistan or, by doing nothing, become from 15 August, 1947, the Ruler of an independent polity. The choice was the Ruler's and his alone: there was no provision for popular consultation in the Indian Princely States during the final days of the British Raj. On 15th of August, 1947, by default, the State of Jammu and Kashmir became independent.

India maintains that this period of independence, the existence of which it has never challenged effectively, came to an end on 26/27 October, as the result of two pairs of closely related transactions which we must now examine. They are:-

a. an Instrument of Accession of Jammu and Kashmir to India which the Maharaja is alleged to have signed on 26 October, 1947, and

b. the acceptance of this Instrument by the Governor General of India, Lord Mountbatten, on 27 October, 1947; plus

c. a letter from the Maharaja to Lord Mountbatten dated 26 October, 1947, in which Indian military aid is sought in return for accession to India (on terms stated in an allegedly enclosed Instrument) and the appointment of Sheikh Abdullah to head an Interim Government of the State; and

d. a letter from Lord Moutbatten to the Maharaja, dated 27 October, 1947, acknowledging the above and noting that, once the affairs of the State have been settled and law and order is restored, "the question of the State'saccession should be settled by a reference to the people".

In both pairs of documents it will be noted that the date of the communication from the Maharaja, be it the alleged Instrument of Accession or the letter to Lord Mountbatten, is given as 26 October, 1947, that is to say before the Indian troops actually began overtly to intervene in the State's affairs on the morning of 27 October, 1947. It has been said that Lord Mountbatten insisted on the Maharaja's signature as a precondition for his approval of Indian intervention in the affairs of what would otherwise be an independent State.

The date, 26 October, 1947, has hitherto been accepted as true by virtually all observers, be they sympathetic or hostile to the Indian case. It is to be found in an official communication by Lord Mountbatten, as Governor General of India, to M.A. Jinnah, Governor-General of Pakistan, on 1st November, 1947,: and it is repeated in the White Paper on Jammu & Kashmir which the Government of India laid before the Indian Parliament in March, 1948. Pakistani diplomats have never challenged it. Recent research, however, has demonstrated beyond a shadow of a doubt that the date is

false. This fact emerges from the archives, and it is also quite clear from such sources as the memoirs of the Prime Minister of Jammu and Kashmir at the time, Mehr Chand Mahajan, and the recently published correspondence of Jawaharlal Nehru, the Indian Prime Minister. Circumstantial accounts of the events of 26 October, 1947, notably that of V. P. Menon (in his The Integration of the Indian States, London, 1956), who said he was actually present when the Maharaja signed, are simply not true.

It is now absolutely clear that the two documents (a), the Instrument of Accession, and (c), the letter to Lord Mountbatten, could not possibly have been signed by the Maharajah of Jammu and Kashmir on 26 October, 1947. The earliest possible time and date for their signature would have to be the afternoon of 27 October, 1947. During 26 October, 1947, the Maharajah of Jammu and Kashmir was travelling by road from Srinagar to Jammu. His Prime Minister, M. C. Mahajan, who was negotiating with the Government of India, and the senior Indian official concerned in State matters, V. P. Menon, were still in New Delhi where they remained overnight, and where their presence was noted by many observers. There was no communication of any sort between New Delhi and the travelling Maharajah. Menon and Mahajan set out by air from New Delhi to Jammu at about 10.00 a.m. on 27 October; and the Maharajah learned from them for the first time the result of his Prime Minister's negotiations in New Delhi in the early afternoon of that day.

The key point, of course, as has already been noted above, is that it is now obvious that these documents could only have been signed after the overt Indian intervention in the State of Jammu & Kashmir. When the Indian troops arrived at Srinagar airfield that State was still independent. Any agreements favourable to India signed after such intervention cannot escape the charge of having been produced under duress. It was, one presumes, to escape just such a charge that the false date 26 October, 1947, was assigned to these two documents. The deliberately distorted account of that very senior Indian official, V.P. Menon, to which reference has already been made, was no doubt executed for the same end. Falsification of such a fundamental element as date of signature, however, once established, can only cast grave doubt over the validity of the documents as a whole.

An examination of the transactions behind these four documents in the light of the new evidence produces a number of other serious doubts. It is clear, for example, that in the case of (c) and (d), the exchange of letters

between the Maharajah and Lord Mountbatten, Lord Mountbatten's reply must antedate the letter to which it is an answer unless, as seems more than probable, both were drafted by the Government of India before being taken up to Jammu on 27 October, 1947, (by V. P. Menon and Jammu & Kashmir Prime Minister M. C. Mahajan, whose movements, incidentally, are correctly reported in the "London Times" of 28 October, 1947), after the arrival of the Indian troops at Srinagar airfield. The case is very strong, therefore, that document (c), the Maharajah's letter to Lord Mountbatten, was dictated to Maharajah.

Documents (c) and (d) were published by the Government of India on 28 October, 1947. The far more important document (a), the alleged Instrument of Accession, was not published until many years later, if at all. It was not communicated to Pakistan at the outset of the overt Indian intervention in the State of Jammu & Kashmir, nor was it presented in facesmile to the United Nations in early 1948, as part of the initial Indian reference to the Security Council. The 1948 White Paper, in which the Government of India set out its formal case in respect to the State of Jammu & Kashmir, does not contain the Instrument of Accession as claimed to have been signed by the Maharajah: instead, it reproduces an unsigned form of Accession such as, it is implied, the Maharajah might have signed. To date no satisfactory original of this Instrument as signed by the Maharajah has been produced; though a highly suspect version, complete with the false date of 26 October, 1947, has been circulated by the Indian side since the 1960s. On the present evidence it is by no means clear that the Maharajah ever did sign an Instrument of Accession. There are, indeed, grounds for suspecting that he did not such thing. The Instrument of Accession referred to in document (c), a letter which as we have seen was probably drafted by Indian officials prior to being shown by the Maharajah, may never have existed, and can hardly have existed when the letter was being prepared.

Even if there had been an Instrument of Accession, then if it followed the form indicated in the unsigned example of such an Instrument published in the Indian 1948 White Paper, it would have been extremely restrictive in the rights conferred upon the Government of India. All that were in fact transferred from the State to the Government of India by such an Instrument were the powers over Defence, Foreign Relations and certain aspects of Communications. Virtually all else was left with the State Government. Thanks to Article 370 of the Indian Constitution of January 1950 (which, unlike much else relating to the former Princely States, has sur-

vived to some significant degree in current Indian Constitutional theory, if not in practice), the State of Jammu & Kashmir was accorded a degree of autonomy which does not sit at all comfortably with the current authoritarian Indian administration of those parts of the State which it holds.

Not only would such an Instrument have been restrictive, but also by virtue of the provisions of (d) Lord Mountbatten's letter to the Maharajah, dated 27 October, 1947, it would have been conditional. Lord Mountbatten, as Governor-General of India, made it clear that the State of Jammu & Kashmir would only be incorporated permanently within the Indian fold after approval as a result of some form of reference to the people, a procedure which soon (with United Nations participation) became defined as a fair and free plebiscite. India has never permitted such a reference to the people to be made.

Why would the Maharajah of Jammu & Kashmir not have signed an Instrument of Accession? The answer lies in the complex course of events of August, September and October 1947, out of which the Kashmir crisis of 26/27 October, 1947, emerged. The Maharajah, confronted with growing internal disorder (including a full scale rebellion in the Poonch region of the State), sought Indian military help without, if at all possible, surrendering his own independence. The Government of India delayed assisting him in the hope that in despair he would accede to India before any Indian actions had to be taken. In the event, India had to move first. Having secured what he wanted, Indian military assistance, the Maharajah would naturally have wished to avoid paying the price of the surrender of his independence by signing any Instrument which he could possibly avoid signing. From the afternoon of 27 October, 1947, onwards a smoke screen conceals both the details and the immediate outcome of this struggle of wills between the Government of India and the Maharajah of Jammu & Kashmir. To judge from the 1948 White Paper, an Instrument of Accession may not have been signed by March 1948, by which time the Indian case for sovereignty over Jammu & Kashmir was already being argued before the United Nations.

The patently false dates of Documents (a) and (c) alter fundamentally the nature of the overt Indian intervention in Jammu & Kashmir on 27 October, 1947. India was not defending its own but intervening in a foreign State. There can be no reasonable doubt that had Pakistan been aware of this falsification of the record it would have argued very differently in international fora from the outset of the dispute; and had the United Nations under-

stood the true chronology it would have listened with far less sympathy to arguments presented to it by successive Indian representatives. Given the facts as they are now known, it may well be that an impartial international tribunal would decide that India had no right at all to be in the State of Jammu & Kashmir.

Courtesy: World Kashmir Freedom Movement, 1993.

APPENDIX-II

JAMMU & KASHMIR PANTHERS PARTY

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August 7, 1993.

THE PRESS STATEMENT BY PROF. BHIM SINGH, FORMER LEGISLATOR OF JAMMU & KASHMIR PANTHERS PARTY RELEASED IN A PRESS CONFERENCE HELD IN DELHI ON AUGUST 7, 1993, ON THE SOLUTION OF JAMMU & KASHMIR PROBLEM.

There can be no two opinions that it is historically necessary to reunify the State of Jammu & Kashmir as it existed on October 20, 1947, just before the aggression, thus, shattering thousands of families who continue to be divided because of the so called Line of Actual Control.

There can be no two opinions that thousands of the broken families need to be united as a human compassion. There is also no dispute on the point that secular character of Jammu & Kashmir has to be restored and maintained at every cost and restore peace in the half burnt Valley of flowers, roses, love, milk and honey. There is also no dispute that all those human beings irrespective of their religions who were forced to leave their homes two years back must return to their homes with honour and dignity as a member of a civilised society for which Jammu & Kashmir has always stood through the ages.

The Valley of Kashmir in particular is bleeding and the citizens of this country are being killed like pigeons both by the law-makers and the law-breakers. This situation cannot be tolerated by any human being or a

noble citizen of a country which has always given a message of human love and glory, non-violence and tolerance. I have myself suffered prisons and illegal detentions for more than 7 years, faced the wrath of the power that be. The time has come that all those who believe in human dignity and love should come forward and join me to save the innocent people from brutalization.

I have been discussing as to what was to be done to find a lasting solution to the problem of Jammu & Kashmir and for the restoration of peace, normalcy and democratic institutions in the State. After discussing with the leaders of Jammu & Kashmir from all sections and cultures, political parties, inside and outside the jails and the country, I am announcing the following proposition with a hope and trust that both the Governments of India and Pakistan will consider it in the interest of peace in the sub-continent and also in the interest of nearly 10 million people of Jammu & Kashmir who have been suffering for one reason or the other, since 1947. This will also end conflict and bitterness between India and Pakistan.

I strongly feel that the western powers including the USA do not and will not appreciate emergence of India as a leading Nation in Asia nor will they digest India and Pakistan joining hands with each other for their growth, progress and political stability. After the USA's military control established in the Gulf region, there is a threat to the security and stability of the entire Asian region and Pakisfan and India are going to be the first targets.

I hope and trust that people of my State of Jammu & Kashmir will also support this format, which is the only mechanism to ensure internal sovereignty (khud Mukhtiari) for the people of the entire State of Jammu & Kashmir which Maharaja of Jammu & Kashmir had kept intact and legally preserved for the people of all the five regions of the State after signing the Instrument of Accession on 26th October, 1947, inviting help from India to defend the people and the boundaries of the State from external aggression. Unfortunately, that situation continues and so does the aggression inspite of the United Nations Directives and Resolutions asking the aggressor to vacate all the occupied territories and the lands including Gilgit region consisting of 28,000sq. miles. Hence this proposition.

I had the occasions to discuss it with several men who matter. I discussed this formula with many of those who are still suffering in prisons and many of those who are residing out of India for different reasons. This

exercise was aimed at seeking a final political solution to the State problems. This formula, if implemented, will create confidence among the people living in various regions of the State and help involve them in the process of reviving democratic system. It will meet the psychological aspirations of the people of all the regions and remove the fear of erosion of identity of the different social groups, including the Ladakhies, the Kashmiries Dogras, Gilgities, Balities etc.

The issues which need immediate attention:

i. Preservation and restoration of identity of 'Kashmiries', 'Dogras', 'Ladakhies', 'Gujjars', 'Paharies', 'Balties', 'Gilgities', etc. (of all five regions).

ii. Social, political and economic independence for all the five regions, Gilgit, Muzafrabad-Mirpur, Jammu, Ladakh & Kashmir.

iii. Working out Constitutional relation of the State with the Union of India in the light of 'Instrument of accession'.

iv. The 'Return' of all migrants to the Valley with honour and security.

v. Providing of employment and social security for all and a general amnesty for all political detenus and their unconditional release.

vi. Restoration of democratic institutions in J & K by electing a Constituent Assembly to rewrite the Constitution.

vii. Alienation of guns from the militants and involving them in the political process.

viii. Re-unification of the state as it existed on 19th of October, 1947, just before the aggression from Pakistan.

Maharaja while respecting the wishes of the people of Jammu & Kashmir and the entire leadership of the State acceded the State of Jammu & Kashmir to the Union of India in respect of Defence, External Affairs, Communications, Currency etc. When state was invaded from Pakistan side. The external sovereignty, though, was transferred to Union of India, the Maharaja did not transfer the internal sovereignty (Khud Mukhtari). The

Maharaja was farsighted and he had understood the local compulsions and conditions of the Society, which is evident from the records. This was accession only and not a merger. This is not true that Maharaja Hari Singh left the State in 1947. The Maharaja never left the State. He continued to be in Jammu & Kashmir as a Constitutional Head while he transferred almost all powers to the State Assembly by appointing Sheikh Mohammad Abdullah as the Prime Minister on March 5, 1948. Maharaja Hari Singh left the State in June, 1949 on health grounds for a temporary period and appointed teenager, Yuvaraj Karan Singh as the Regent of the State. Yuvaraj Karan Singh continued as a Constitutional Head of the State in his capacity as the Regent, being the son of the Maharaja till the monarchy was abolished in 1952 by the so-called Constituent Assembly. The Monarchy was abolished under the seal and signatures of Yuvaraj Karan Singh when his father was alive and constitutional monarch. Whether, Yuvraj was competent to do this or not is a moot point in the eyes of municipal and international laws.

Literally speaking, the elections to the State Assembly were held from time to time under the patronage of the State Administration. History of rigging, fraud, suppression and oppression is not unknown to anybody concerned about Jammu and Kashmir. I, myself, have been a victim of State Government's wrath and the draconian laws. After winning election to the Parliament in 1988 by a margin of 32,000 votes, I was declared defeated. I vindicated this point by winning my case in the High Court four years later.

What has been happening since 1947 is on record. I am not going into the details of who ruled Jammu and Kashmir and how they ruled. On the other hand, 13,00,000 citizens in Gilgit regions have been living like sheep and goats. This region was illegally annexed by Pakistan in defiance of UN resolutions. POK High Court has also directed Pakistan to vacate this area. Nearly 4,00,00 citizens of J & K have migrated to European countries in search of livelihood. The people in POK have never seen the dawn of freedom and liberty or enjoyed human rights. Nearly a million families continued to be broken from each other. The Line of Actual Control has divided the families. The situation that made the Maharaja to invite Indian Army for vacating the aggression still continue.

PART - I

All the five regions of the State should have autonomous administration or statutory regional or Provincial Assemblies. The number of seats

in the Provincial Assemblies could be fixed according to the population available with the Administration. A representative from each block should form the Provincial Assemblies in each region. Constitution should provide a similar constitutional structure for the regions of Gilgit and POK. Provincial governments should be given control of local administration, regional recruitment, revenue, agriculture, education, sports, taxes, tourism, industries and should be headed by an elected Chief Executive. The head of each autonomous unit may be called "Provincial Chief Minister or Provincial Administrator".

The State Assembly should continue intact. This will look after "law and order", high court, legislation, general budget and inter-province subjects. Limited Secretariat will move with the Chief Minister's office, but the provincial matters will remain with the provincial secretariat at Jammu, Srinagar and Leh. It will mean heavy reduction in the current massive expenditure on "Darbar Move", while retaining the principle of delivering justice at the doorstep, it may be understood that the State Assembly and the State Government, will remain operating with limited powers and size.

This will also remove doubts from the minds of people of each region about the domination by another. This will further ensure the development of each region. The State Constitution will be amended to the effect that all minorities, weaker sections, Scheduled Tribes or Scheduled Castes or small religious or ethnic groups will be given constitutional guarantees for the safeguard of their rights with each province. The Dogri will be brought under schedule VIII of the Indian Constitution and all the languages will be brought at par with each other including Pahari, Mirpuri, Balti, Ladakhi etc.

So far as the internal problem is concerned, a lasting solution has to be worked out to create confidence among the people of each community and every section of the society living in any part of the State of Jammu & Kashmir.

As I said above the status of Jammu & Kashmir was totally different from other states in the country on 15th August, 1947. Clause 6 of Simla Agreement itself has created the impression that Jammu & Kashmir is an international issue. It says that Heads of the two States, i.e. India and Pakistan will meet frequently to seek the final settlement of Jammu and Kashmir. This needs a debate.. The solution needs involvement of the people of J&K.

PART - II

a) The State acceded to the Union of India through the Instrument of Accession which was signed by the Maharaja on October 26, 1947. This was done in the best interest of the defence of the state and its people.

b) A letter addressed to the Maharaja by Lord Moutbatten, the then Governor General of India on the advice of Pandit Jawahar Lal Nehru, the then Prime Minister of India stated, while accepting the Accession. "It is my Government's wish that as soon as the law and order is restored in Kashmir and her soil cleared of the invaders, the question of the State's accession should be settled by reference to the people". The invader has not cleared the soil till date. Instead, Pakistan annexed entire Gilgit region in total violation of the UN resolutions and directives on which Pakistan has been harping so much in International forums.

c) The United Nations Resolutions of August 13, 1948 and Jan. 5, 1949, had directed Pakistan to vacate all its Armed forces as well as Pak-settlers from all occupiedterritories which included the present "Azad Kashmir" and Gilgit region. Pakistan instead of following the mandate of the United Nations annexed the entire Gilgit region with included Askardu and other areas comprising 28,000 sq. kms. territory of Jammu and Kashmir Pakistan in violation of UN resolutions leased out more than 6000 sq. mls. to China to build up Karakoram Highway on our territory. The fact is that Pakistan violated the mandates of the United Nations. Pakistan must implement the United Nations Resolutions of August 13,. 1948 and then that of January 5, 1949 before asking for referendum. The latest judgement of POK High Court dated March 8, 1993, directing Pakistan to vacate Gilgat region and hand it over to the POK administration has not been implemented by Pakistan. This exposes Pakistan of double standards. In other words, Pakistan must withdraw its forces from the lAC (Line of Actual Control). There has to be reunification of J&K.

I urge to accord a status to Jammu and Kashmir which it enjoyed on the evening of October 27, 1947, immediately after the Instrument of Accession was signed by the Governor General of India. All the laws which

were enacted after October 27, 1947 should be scrutinized by the new 'Constituent Assembly". The State Assembly should be elected with a clear declaration that the Assembly shall have the powers of a Constituent Assembly. The subjects included in the instrument of accession will be out of the jurisdiction of the Assembly as the aggression continues in defiance of UN resolutions. Dr. Karan Singh should naturally return as the Constitutional Head of the State. He should have all authorities which he enjoyed till 1952. It should be left on him to form his Government and hold elections to the assembly under the supervision of the men of integrity who will be acceptable to all sections of the state.

I strongly urge on Pakistan to accord the same status to POK and Gilgit as per UN resolutions. In support of the legality of the proposition, I quote Mr. Krishna Menon's speech on the floor of the UN dated 20th Feb. 1957.

Besides, I want to submit to the Council, another proposition. As a former Governor-General of India said: "What is Kashmir, no man's-land"? My colleague says, in his very laboured attempt to establish equality of the two sides, that neither Pakistan nor India has sovereignty in this place. If it is no-man's land, that would be a very peculiar position. On the other hand, if neither of us had sovereignty, it will go back to the Maharaja of Jammu and Kashmir whose son is the President of the Kashmir State at the present moment. There may be some advantage in that, but we are not prepared to take advantage of it".

Bhim Singh
New Delhi, August 7, 1993.

APPENDIX - III

AYESHA JALAL'S SOLUTION OF THE KASHMIR PROBLEM

Given the rapidly changing regional and international environment it would be myopic to believe that the existing configurations of power can determine what is a "realistic" solution of the Kashmir problem. Just as there can be no solution based on the principle of self-determination alone, none can be made to stick unless both India and Pakistan show flexibility in accommodating the new and emerging realities.

The voice of sanity seems to be drowning in the rhetoric of war, but there is still trace of hope that moderation can prevail. What would be the contours of a political framework with which Kashmiri aspirations for self-determination will be satisfied while, at the same time, assuaging the fears and accommodating the interests of the two powerful states in the regions? For a start, the principle of self-determination should no longer be seen as precluding independence and reunion between the two Kashmir's. Indeed, it may well be the only long-term solution, now that the Vale of Kashmir is awash with anti-Indian feelings. Indian hopes of pacifying Kashmiris with offers of larger development grants and greater autonomy may still seem to be the more sensible option, but it is only a stop-gap measure.

Given a measure of flexibility, the fears and the interests of the two main regional powers can be accommodated within a political framework for a reunified and independent Kashmir. The arrangement would be based on "sovereignty association" with both India and Pakistan . This notion differs in essentials from the idea of an Indo-Pakistan condominium over Kashmir, which negates the right of Kashmiri self-determination. It is also at complete variance with the concept of a loose confederation between India, Pakistan and Kashmir, which overlooks the great variations in the composition and character of these three political entities.

Sovereignty-association implies first the recognition of the national rather than simply the minority status of a distinctive community; and second, the negotiation of an association of this nation with a larger multinational state. Underlying this concept is aboard and imaginative interpretation of sovereignty. It is only an emphasis on power to the exclusion of principle of the reality of existing states to the detriment of aspirations of peoples, which can sustain absolutist notions of sovereignty in today's world. A more relative perspective may lead to the notion of lawyers of sovereignty and enable the much needed reconciliation of the power with principle of authority with freedom.

For sovereignty-association to work in Kashmir, India and Pakistan will have to agree to extend the right of self-determination to all Kashmiris—Muslims, Hindus and Buddhists. The features that have made the UN resolutions on a plebiscite unworkable for more than four decades must be altered. A plebiscite or referendum can be held first in Jammu and Kashmir, including Ladakh to determine whether to remain with the Indian Union or to opt for independence and possible union with Azad Kashmir. Leaving Azad Kashmir out of the first round of voting, and replacing the option of joining Pakistan with the option for independence takes account of Indian fears, and if a free and fair vote is caste in favour of retaining the union with India, the Kashmiri right of self-determination will have been exercised.

India and Pakistan could then negotiate a treaty settling the boundary dispute once and for all. If a majority votes for independence, however, the union with India would stand annulled. In the event that Hindu-majority Jammu and Buddhist-majority. Ladakh vote overwhelmingly against independence, despite an overall majority for independence, all allowance should be given for these regions to remain with India.

Azad Kashmir could then vote to decide whether to unite with the rest of Kashmir on the basis of a sovereignty-association with Pakistan. If both parts of Kashmir decide on independence, a constituent assembly of Kashmir as a whole will ratify the terms of associations with the two regional powers. New Delhi and Islamabad can accommodate the new association within their constitutions. India and Pakistan troops will be withdrawn and Kashmir declared a demilitarized zone with its territorial integrity guaranteed by both countries. (The terms of the sovereignty-association may allow India and Pakistan to maintain a limited military presence in Ladakh and the Afghan border, respectively, to meet the strategic con-

cerns of each country about potential threats emanating from outside the South Asian region).

Admittedly, obsessive passions, fears and suspicions are not easy to exercise. Kashmir in all its natural splendour has elicited more possessive greed and murderous conflict than detached love. Kashmir today is a Valley of despair in need of compassion from those who have been so enchanted by its spell. This proposal based on a dialectic of power and principle is an evocation of opportunity for a grand historic compromise on the Sub-continent's most divisive issue.... It is being articulated....because a season must eventually come when the pure white of Kashmir is not stained with the blood of another young generation.

Courtesy: The Frontier Post, 29 July, 1990.

APPENDIX - IV

EXPERT MOOTS 'COMPROMISE' ON J&K

Jay Raina

New Delhi, May 12, Leading US expert of International Law Mr. Richard A. Falk, has favoured some kind of a compromise between India and Pakistan so as to end the ongoing terrorist-related violence in the Valley. "Jammu and Kashmir may be given autonomy in concrete terms that makes India feel, even though symbolically, that the State formed part of the Union and also makes Pakistan feel that Kashmir had been insulated from the alleged abuse of Indian State", the noted international law and international relations expert said in an exclusive interview to th HT, last week.

Prof. Falk, who is currently the Albert G. Milbank Professor of International Law and Practice at Princeton University in the USA, was in Delhi, as a participant at the two-day seminar on 'Rajiv Gandhi Memorial Initiative — For the Advancement of Human Civilization'.

During his four-day stay in the Capital, Prof. Falk met Prime Minister, P. V. Narsihma Rao, Mrs. Sonia Gandhi and other prominent leaders besides lecturing at the Jawaharlal Nehru University.

The 63-year-old expert pointed out that the Indian State having alienated the people of Kashmir over the years had provided chinks that were exploited by others to create trouble in the Valley.

Courtesy: The Hindustan Times, May 14, 1993.

APPENDIX - V

KASHMIR SITUATION - PUBLIC EMPLOYMENT IN J&K

I. Employees Working in State EBF Depts as on 1.7.87

S. No.	Category of Service	Hindus(%)	Muslims(%)	Sikhs(%)	Others(%)	Total
1.	Gazetted	6307	5140	717	159	12323
2.	Non-Gazetted	49705	73780	5555	2136	131176
3.	Inferior	14370	32011	1010	1469	48860
		(29.4)	(65.5)	(2.1)	(3.0)	(1.9)
	Total	7038	110931	7282	3764	192359
	Percentage:	(36.6)	(57.7)	(3.8)	(1.9)	
	% of Population	32.2	64.2	2.2	1.3	

II Employees Working in State Corporation/Undertaking/Autonomous Boards/Banks

S. No.	Category of Service	Hindus	Muslims	Sikhs	Others	Total
1.	Gazetted	1115	1160	104	2	2381
2.	Non-Gazetted	(46.8)	(48.7)	(4.4)	(0.1)	
		6201	11065	1123	110	18499
3.	Class IV	3082	6518	272	66	9928
		(31.0)	(65.6)	(2.8)	(0.6)	
	Total	10,398	18,743	1499	178	30,818
		(33.7)	(60.8)	(4.9)	(0.6)	

III. Employees in the Central Government Establishment as on 1.1.1989

S. No.	Category of Service	Hindus	Muslims	Sikhs	Others	Total
1.	Officers	1613 (83.7)	1333 (6.9)	161 (8.3)	21 (1.1)	1928
2.	Non-Gazetted Staff	4043 (79.2)	662 (13.0)	320 (6.3)	75 (1.5)	5100
3.	Class IV	5622 (72.9)	1212 (15.7)	550 (7.1)	331 (4.3)	7715
	Total Percentage:	11278 (76.5)	20073 (13.6)	1031 (7.0)	427 (2.9)	14,743

Source: Radiance Views Weekly, 29 April, 5 May, 1990

APPENDIX - VI

GEELANI'S PLEA TO MUSLIM WORLD ON KASHMIR

Kashmir Times Correspondent

Srinagar, April 26, Senior Jamate Islami leader Syed Ali Shah Geelani has urged the Islamic countries to severe diplomatic relations with India and also resort to an economic blockade "in view of the reign of terror let loose by Indian forces against innocent Kashmiri muslims who are being denied their birth right of self-determination.

In a letter addressed to the foreign ministers of Islamic countries and other delegates of the Karachi conference, the Jamat leader drew their attention to "large-scale killings, gross abuse of basic human rights, loot, arson, rape and plunder" which, he alleged, had become a practice of the Indian forces in Kashmir and appealed the muslim world to declare "India a terrorist state".

The copies of the letter were distributed amongst newspapers here today with a covering letter which said that "this letter was distributed among the delegates of Karachi conference this morning by a representative of Mr. Geelani, who is already in Karachi".

In his four page letter, Geelani went to the extent of suggesting to the muslim countries to take steps for getting India expelled from the United Nations for violating the basic character of the world body. "India stands committed on the floor of the UN that it would hold plebiscite in Jammu and Kashmir and allow the people the right to decide about their future. But when it is not implementing this commitment and instead using brute force against those who remind India of its promises, it has no moral right to continue as a member of the United Nations", the letter said.

Geelani was all praise for Pakistan for what he called its total support on political, moral and diplomatic levels to the Kashmiri people and said that it was ironical that "some imperialist powers, at the behest of India, were talking in terms of declaring Pakistan as a terrorist state". He said that by not allowing a delegation of Islamic Conference to visit Kashmir as decided at Jeddah Summit, it was beyond any doubt that India was holding Kashmir on gun point and its refusal to allow the delegation was aimed only to cover its misdeeds here.

However, he wanted the Muslim countries to take a serious note of the situation and force India to fulfill its commitment for holding a plebiscite in Kashmir. "This can be done if you adopt a common strategy and, instead of passing resolutions condemning India, announce economic boycott", Geelani said and added that people of Kashmir had pinned lots of hopes on Karachi conclave and were confident that "this time you will do something practical for us".

Meanwhile, a spokesman of Hizbul Mujahideen, armed wing of the Jamat, has said that a delegation of the guerrilla group led by Ghulam Mohammad Safi, called on several foreign ministers of the Islamic countries in Karachi and briefed them about the latest situation obtaining in Kashmir.

The spokesman said that the delegation submitted "documentary evidence of the large scale excesses" both in print and visuals to the delegates, besides holding photo exhibition outside the venue of the conference depicting the abuse of human rights in Kashmir.

The delegation urged the representative of the Muslim world to use their good offices and exert pressure on New Delhi for putting an end to the ongoing genocide of Kashmiri Muslims", besides allowing the people to decide their future. It also demanded that Muslim countries should work for getting India declared as a "terrorist state" in view of the gross violations of the UN charter by its forces in Kashmir.

In Karachi, a commission of the Organization of Islamic Conference today recommended to member states to extend "full political, diplomatic, moral and material support" to the Muslim people of Kashmir for realization of their right to self-determination, reports PTI.

The report of the commission, named by OIC as "Fact Finding Commission on Kashmir" is currently under consideration of the political committee of the 21st OIC Foreign Ministers meet.

The 13-page report released to the press, asked 51 OIC member countries to consider imposing "restrictions on scientific, cultural, manpower and other exchanges with India pending the reversal of India's repression in Kashmir".

India had refused permission to a three-member "fact finding mission" to visit Kashmir in February this year, terming it as an interference in its internal affairs. Later the three toured Pakistan-occupied Kashmir.

Talking to a group of newsmen here, a senior functionary of the Pakistan foreign office said that Islamabad would not press for adoption of the recommendation on stoppage of manpower import from India.

Replying to questions, the official said "our Muslim brother countries have substantial relations with India which we do not want to jeopardize nor will they like to take such a stand".

He said the thrust of the OIC was to pressurize New Delhi to accept Kashmir's right to self determination for a peaceful settlement of the issue and also stop what he termed as the human rights violation in the Valley.

On the second day of the five-day Foreign Ministers Conference, being attended by 46 countries at the ministerial level, leaders of the various delegations addressed the plenary session with the Kuwait first Deputy Prime Minister and the Minister for Foreign Affairs, Sheikh Sabah Al-Jaber stressing that the Kashmir issue should be resolved on the basis of the 1972 Simla Agreement only.

Officials said that the report of the fact finding commission would figure in omnibus resolution on Kashmir and the main resolution of the conference while the Babri Masjid issue would find place in the resolution on cultural affairs.

Courtesy:Kashmir Times, April 27,1993

APPENDIX - VII

KASHMIR
A LAND RULED BY THE GUN

(An Open Letter to Mr. Narasimha Rao, Prime Minister of India)

According to the newspapers while speaking at the meeting of the National Integration Council on December 21, 1991, you referred to the reports of the human rights groups of the country as "orchestration" of false accusations of human rights violations. You further said that, "in this country, it appears that no one except the terrorist has human rights, "and accused the human rights groups of "thunderous silence" regarding the Ludhiana massacre. The implication is that the human rights activists do not care for the lives of the law abiding citizens.

These types of irresponsible comments about the human rights activists have been made in the past by a section of the press, the bureaucracy, the police and politicians. This is the first time the Prime Minister of this country has joined the chorus.

We are concerned with the human rights of the ordinary people. The state of India is charged with the responsibility of upholding rule of law, justice and the responsibility of protecting life and liberty of its citizens. Militants operate from outside the established law. The killings, kidnappings, bombings and looting done by them are essentially criminal actions and must be dealt with as such. The issue of violation of human rights arises when the state or its organs also indulge in similar acts or a situation is created where access to justice is denied.

Is it not ridiculous to ask human rights groups to appeal to the militants or to condemn them? Will thieves and murders stop stealing and killing if we appeal to them or condemn them?

The state of India has created special laws like, Terrorist and Disruptive Activities Act (TADA), disturbed Area Act and the Armed Forces Special Powers Act to deal with the militants. But the security forces and the army do not deal only with the militants. They also deal with ordinary citizens all of whom are not militants.

The experience of the north eastern states, Punjab and Kashmir shows that these acts confer unguided and uncanalised powers to the members of the armed forces directly resulting in an unreasonable restriction of the citizens fundamental rights. In fact the restrictions are such that they amount to virtual suspension of fundamental rights of the citizens without declaration of an Emergency because even under a state of Emergency the fundamental rights conferred by Article 14 and 21 cannot be taken away.

The denunciation of Pakistan and condemnation of those who allege human rights violations by security forces were the supposed highlights of your speech at the NIC. You are reported to have said that your government has a deep commitment to human rights and is ready to probe into all allegations and take action against the guilty. But your "thunderous silence" and inaction in punishing those who are guilty of butchering thousands of Sikhs in the capital of the country in November 1984 — (some of the guilty including your former cabinet colleagues and your own party men) — render your claim hollow.

Pray, Mr. Prime Minister, what is preventing you and your government from probing into the allegations of human rights violations in Kashmir? Mr. Rao why don't you call our bluff: Let there be an open judicial enquiry into the allegations we have made against the security forces and the army in Kashmir. If it is proved that we have been indulging in anti-national propaganda on behalf of the militants and that "country on our western border", let us be punished according to the law of the land. This is what we expect from the Prime Minister of the "world's largest democracy".

Nobody denies Pakistan's interest and involvement with the militants in the two trouble torn states of our country. But is Pakistan's instigation the only cause? Please get out of the siege —— mentality Mr. Rao. Pakistan and India have fought three wars. What have we achieved? The trouble in Kashmir and Punjab is not Pakistan's creation Mr. Rao, it is the result of wrong politics of the centre. We have to correct the wrongs of the past forty years first. Another war with Pakistan and killing thousands of

Muslims in Kashmir and Sikhs in Punjab will not deliver us from these problems.

Yes, Mr. Prime Minister, we grieve for the brothers and sisters who are killed by the militants. We also grieve for the thousands who have been killed by the communalists, the upper caste landlords and their hired goons and the three thousand Sikhs who were butchered in the capital of the country in November, 1984. We grieve for the workers and trade unionists who were killed by industrialists, for the dead of Bhopal and also those innocents who were killed by our security forces and the army. We hang our heads in shame when we are confronted with evidence of brutal torture and rape by our law enforcement agencies.

This country does not belong only to those who think territory is more important than people. It also belongs to us. We have fought these politicians and their supporters on the streets. We shall continue to fight them no matter wherever they are.

Sumanto Banerjee	Gautam Navlakba	Inder Mohan
Dinesh Mohan	Subasini Mulay	Rita Manchanda
Tapan K. Bose	Ashok Aggarwal	Ravi Nair
Nitya Ramarishnan	Salar M. Khan	Salim Sheikh

This letter was issued by the Committee on January 10, 1992. As usual no newspapers published it).

APPENDIX-VIII

HOW SOME PROMINENT INDIANS LOOK AT KASHMIR PROBLEM KASHMIR PROBLEM

Bhabani Sengupta

Columnist Bhabani Sengupta, who is associated with the Centre for Policy research in the capital, feels that the current problem in Kashmir is primarily India's own creation and that Pakistan's involvement has added a new dimension in the last three years. "Over a period of 35 years we have retrenched Kashmiri's autonomy and imposed upon the state the same corrupt and exploitative administration that has prevailed in our own country", he says. As a result we have alienated almost the entire Muslim population in the Valley and, certainly, the youth".

According to Sengupta, Pakistan's involvement in the Kashmir problem is a relatively new factor. Pakistan has exploited the uprising in the Valley by helping the militants with arms, training and very large supplies of Islamic fundamentalism. "I call it a new factor because in the previous 17-18 years, Pakistan had adopted a policy of non-involvement in the affairs of the Indian state of Jammu and Kashmir".

So, what is Sengupta's solution? He advocates a dialogue with Pakistan to explain to the authorities in Islamabad that both countries are facing similar problems and that the Kashmir question should be resolved.

2.**B. G. Verghese**

Concurs B. G. Verghese, former editor of the Hindustan Times and the Indian Express, and currently with the Centre for Policy Research: "Pakistan has to be a factor in any solution. We have to seek a partnership with Pakistan. It is for us to spell out a direction in which we can move, and I see no loss of sovereignty, security, or face in this. "Verghese says that it is unrealistic to expect Pakistan to call off its activities in Kashmir".

3. **Prem Shankar Jha**

Prem Shankar Jha, a columnist and former editor of The Hindustan Times, too, feels that this is the right time to initiate a dialogue. The country's polity is weak, the military is infected with political ideas and in private conversation the Pakistanis admit that their country would greatly benefit from the normalization of Indo-Pakistan relations. "Pakistan is more amenable to talks than ever before. It is in India's long-term interests that the democratic forces in Pakistan be strengthened. This would also help neutralize the Muslim bloc", says Jha.

India will have to go about talking to Pakistan and work out the parameters of the dialogue. Jha suggests that the talks should go beyond Kashmir and concentrate more on the welfare of India and Pakistan.

APPENDIX - IX

WASHINGTON LETTER ANTI-INDIA TIRADE AT WORLD KASHMIR MEET

From Ludwina A. Joseph

At the international Kashmir conference held recently in Washington D.C., Kashmiris from the USA, Europe and the subcontinent attempted to focus on and crystallise issues that they feel have been ignored by the world and sidelined by New Delhi. However, the message from the conference was clear and unambiguous-implementation of the UN resolution and freedom for Kashmir.

The conference was organized by the World Kashmir Freedom Movement, which, according to its brochure, is "committed to achieving the right of self-determination for the Kashmiri people through peaceful political means and within the framework of international law (it also) provides moral and political support and material relief for the Kashmiri people who are being victimized by the Indian authorities".

Featured speakers ranged from the frankly rabble-rousing and emotional to the reasoned and logical and included well-known Pakistani columnist Mushahid Hussain, Pakistan's Ambassador to the U.N. Jamshed Markar, Lord Eric Avebury of the British Parliamentary Human Rights Group and Mr. Recai Kutan of Turkey's Human Right Committee. India's Ambassador to the U.N., Mr C. R. Gharekhan, was invited but did not make an appearance (for obvious reasons).

In his introductory remarks, Dr. Ghulam Nabi Fai, executive director of the Kashmiri-American Council, spoke about the "substantial progress"

that the council had made in countering India's "effective disinformation campaign". The council had successfully lobbied for the passage of two amendments in the US Congress, condemning India for its human right violations and calling on the Indian government to initiate a political dialogue with the Kashmiri people. Dr. Fai called it a "watershed event" and an "important mark of our progress in Washington".

According to Dr. Mohammad Ashraf Sahaf of the council, "the perception in the west that the Kashmir struggle is a religious one is humbug. It has to do with ethnicity. Being Muslim is incidental". Oxford University Professor, Iftikhar Malik argued that public opinion could be mobilised through persuasion, pressure and pluralism. India had to reminded of its historical and moral obligations and told that it could no longer "play the regional bully". Academic and media efforts would have to intensified and Kashmiris would need to prove that they could peacefully co-exist with other minorities.

Mr. Ashraf Qureshi of Pakistan's mission to the U.N., observed that the sale of Kashmir by the British to the "petty and despotic chieftain Gulab Singh for the sum of Rs,7.5 million was the first grievous wound" inflicted on the Kashmiris. The second was the "preposterous betrayal" of 1947. In his luncheon address, Ambassador Markar took the audience through the entire historical perspective and the basic arguments used by India.

Amidst clapping and chanting, Mushahid Hussain declared: "No government or Pakistan can renege on its commitment to Kashmir". India had become "more militarized and more Hinduised" because of "the uprisings in Kashmir, Khalistan and Assam"; its image in the world community had taken a battering and changed "from secularism to that of Hindu chauvinism". Many myths had been shattered including those of India's invincibility in the region and its secularism. And the credit went to the Kashmiris. Twenty years ago India had intervened in East Pakistan because of human rights violations but "the chickens had come home to roost" in Kashmir and "Indian hypocrisy and duplicity were exposed". Mushahid claimed Mufti Mohammad Syed, a former Indian Home Minister (a Kashmiri), had told him that the only elections in Kashmir that were not rigged were those of 1977.

Gambian-born Dr. Sulayman Nyang of Washington's Howard University felt that the Kashmir problem was a result of a global order that

began in the fifteenth century with the arrival of Vascode Gama to India. The Kashmiris were victims of a colonial legacy and their struggle was both "unique and universal". He chastised the Indian leadership for being "committed to an inherited political order" and for "denying the rights of Sikhs and Kashmiris". "Mountbaten was only interested in egoistic decision-making and had left the political system intact in the hands of Anglo-Indians like Nehru". By supporting the creation of Bangladesh and the dismemberment of Pakistan, India had broken the Eleventh Commandment: "Thou shalt not covet thy neighbours's territory" and had set a precedent.

Discussing the objectives of the conference in an interview, Dr. Ayyub Thakkar, who heads the London-based World Kashmir Freedom Movement, asserted: "The conference would like to show the world three things ... that it is freedom struggle in Kashmir ... not a terrorist movement ... We want to project the atrocities perpetrated by the Indian authorities and to expose these excesses to the world ... and thirdly, we want to mobilize the world community to implement the U. N. resolution at a time when resolutions on Kuwait and Namibia have also been implemented. And we would like to coordinate the efforts of Kashmiri groups in America, Europe and the Gulf".

Lord Avebury expressed sympathy with the Kashmir cause and concern for the innocent victims. Lord and Lady Avebury were guests of honour at the conference and so was Mr. Recai Kutan, who showed strong support for the cause of Kasahmiri justice.

Also present was a large delegation of expatriate Kashmiris from London. They were students and businessmen, doctors and engineers. From accounts, the Kashmiri lobby in the U.K. appears to be more active and successful than elsewhere. The delegation from London was full of hope that recent political changes in the world would persuade New Delhi to change its stance. When asked about who was funding and training the militants in Kashmir, members refused to be drawn into a debate.

Several speakers harped on "India's pipe dream" that "the problem would disappear" and that Kashmir could be retained "by suppressing the will of the people". It appeared however, that many in the conference may have been having a pipe dream of their own. Dr. Fai put it in a nutshell when he said, "It is only a matter of time before Kashmir is free....we are going to make this dream a reality".

Courtesy: Kashmir Times, August 3, 1991

APPENDIX - X

THE JAMMU AND KASHMIR PUBLIC SAFETY ACT, 1978

The Jammu and Kashmir Public Safety Act was enacted in 1978 and amended in 1987 and 1990. Originally, the Act empowered the state government to detain persons without trial for up to one year for activities such as "promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community or region {sec. 8(3) b (ii)}. The period of detention was later extended up to two years through an amendment. The PSA is widely described as a black law and has been used even by the previous governments against their political opponents to detain them for a prolonged period without trial.

Under the Act, the district magistrate or his subordinate has to provide in writing the specific reasons for issuing the warrants. He must satisfy himself from different sources that the person to be arrested actually poses a threat to the society. And within five days of detention, the detainee must be told the reasons of his arrest and allowed the "earliest opportunity" to challenge the detention order. The order of the magistrate is to be put before the advisory board for ratification. Within eight weeks of detention, the advisory board, consisting of present or former high court judges or persons so qualified, must determine "whether there exists sufficient cause for detention. If the board accepts the reasons as valid, the issuing officer has to specify the period of internment. When the order is challenged in the court of law, the records of the grounds of arrest are required to be produced in the court. The most objectionable aspect of the Act is that it falls short or due process of fair trial. Under the Act the proceedings of the advisory board are to remain secret and the detainee has no right to counsel and is not allowed to confront witness against him.

The provisions of the Act are often blatantly violated. The detainees are not provided the grounds of their arrest and their cases are not processed within the prescribed time-frame. As a result, the detainees remain without trial for a much longer period. Besides, to create hardless for the detainees

in meeting their counsel and relatives, Jagmohan amended section 10 of the Act which provided for a detention of persons within the state. The amendment enacted through a Governor's proclamation, the J&K Public Safety Amendment Act, 1990, allowed detention outside the state. The amendment is in excess of the Governor's powers, as it extends the operation of the Act to territories outside his jurisdiction. Besides, by subsection (2) of Section 11, the original Act provides that it shall extend to the state of Jammu and Kashmir which implies that its operation shall be limited to the territories administered by the state. However, the amendment led to detention of many political opponents outside the state in Rajisthan, Madhya Pradesh, Delhi and elsewhere. In short, the Act is "inconsistent with much of Article 14 of the ICCPR, which guarantees, among other things, a public and fair hearing, the assistance of counsel, the opportunity to confront witness and review of conviction and sentence by a higher tribunal".

The Act has been widely misused by the state government, especially since the beginning of Governor's rule. It has generally been used to detain people for political reasons. "Sometimes it is for being anti-accession, sometimes as a Pakistani agent, sometimes for leading a religious procession or sometimes for challenging the authority of the Central government". Thousands of Kashmiris have been held under the Act. The grounds of arrest are so innocuous that the courts often refused to accept them as valid reason and the writs of the detainees were upheld. Justice R.P. Sethi of Kashmir High Court has declared the detention of some persons under the Act as "unconstitutional and illegal". Some of the writs were of persons who had been in detention for more than two years since the beginning of Governor's rule. The fact that the High Court has quashed many detention orders proves that the government has misused the Act to suppress peaceful dissent. Recently, in two judgments, the Kashmir High Court ordered the unconditional release of Mushtaq-ul-Islam, a commander of Hizbullah, and Fazal Haq, a top activist of the People's League. In case of Mushtaq-ul-Islam, the court observed that the authorities did not seem to be serious about prosecuting the accused, while in the case of Fazal Haq the court remarked that there were "insufficient grounds of detention". There are 8 to 9 thousand bail applications currently lodged, and 5,000 writs for habeas corpus. According to lawyers, everybody released as a result of these applications is rearrested. It has become a convention in Kashmir that a released person is immediately rearrested under other charges. According to a lawyer in Kashmir, many detainees do not file habeas corpus petitions because they do not know how to do so, and because their family members who could do so have not been informed of the detainee's whereabouts.

APPENDIX - XI

THE JAMMU AND KASHMIR DISTURBED AREAS ACT, 1990

On 3 July 1990, Governor Girish Sexana promulgated the Jammu and Kashmir Disturbed Areas Act, 1990. The areas declared disturbed included all six districts of the Valley comprising Anantnag, Baramulla, Kupwara, Badgam, Pulwama and Srinagar as well as a 20-km belt along the Line of Control in Rajori and Poonch districts of the Jammu region.

The stated purpose of the Act is "the suppression of disorder" and "restoration and maintenance of public order in disturbed areas of Jammu and Kashmir". (98) The Act empowers (under section 4) any magistrate or police officer not below the rank of sub-inspector, or head constable in the case of armed branch of the police, after giving due warning, to "fire upon, against any person who is indulging in any act which may result in serious breach of public order or is acting in contravention of a law or order for the time being in force, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of firearms, ammunition or explosive substances."(99) The Act also gives powers to "any magistrate and sub-inspector to destroy any arms dump or fortified position or shelter from which arms attacks are made or are attempted to be made, etc."(100) Thus the Act bans public demonstrations and authorizes the police to shoot or kill any person presumed to be disturbing public order and destroy arms dump and buildings thought to be harbouring "militants". Practically, the Act has resulted in indiscriminate and unprovoked firing on peaceful and unarmed demonstrators, extra-judicial killings and destruction and torching of personal property.

APPENDIX - XII

THE ARMED FORCES (JAMMU & KASHMIR) SPECIAL POWERS ACT, 1990

On July 5, 1990, the President of India promulgated (Jammu and Kashmir) Special Powers Ordinance, 1990. The ordinance was replaced by the Armed Forces (Jammu and Kashmir) Special Powers Act, which received the President's assent on 10 September, 1990.

Under the Act, the Indian army took overall control of areas in Jammu and Kashmir declared as "disturbed areas". The Act confers certain special powers upon the members of the armed forces operating, such as the Border Security Force (BSF). Section 4 of the Act authorizes "any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces in a disturbed areas: (a) after giving due warning to fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or carrying of firearms, ammunition or explosive materials; (b) destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made, or are attempted to be made, or any structure used as a training camp for armed volunteers or utilized as a hideout by armed gangs or absconders wanted for any offence; (c) arrest, without warrant, any person if a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use force as may be necessary to effect such arrest; (d) enter to search without warrant any premises to make an arrest, and to recover any person or any arms, ammunition or explosive substances; (e) stop, search and seize any vehicle or vessel reasonably suspected of carrying any person who is a proclaimed offender, or has committed a non-cognizable offence, or is suspected of doing so, or is carrying any arms, ammunition or explosive substance".

However, the arrested persons and the seized property, including arms and ammunition, explosive substances or vehicle, have to be handed over to the officer incharge of the nearest police station without the least possible delay, together with the report of the circumstances, of the case. This has never been done. Instead, bodies of those killed are given to the police to be handed over to their relatives. The mere promulgation of a notification under the Disturbed Areas Act and Armed Forces Special Powers Act does not give "military forces ipso facto power of arrest, shooting, search and seizure unless they are asked to aid the civil administration to take steps under the Act to quell the rebellion, by disarming the insurgents". This means that the civil administration technically enjoys an upper hand and should regulate all the security forces and the army's "anti-militant operations". But, practically, it is the other way round and most of the time the local administration and police are not even aware of these operations. Ian Marlin, the Secretary General of Amnesty International, observes that the Act gives a license to kill.

Similarly, both Acts provide that no suit, prosecution, or other legal proceedings shall be instituted, except with the previous sanction of the State government against any person in respect of anything done or purporting to be done in exercise of the powers conferred by the Act. This gives army and paramilitary forces a free hand to use lethal force. Again, the state government has proved totally ineffective in initiating cases of violations of human rights either against the security forces or the army. Even where the state administration tried to give its findings, they were not accorded any importance. For instance, in the case of the Kunan Poshpora mass-rape by the Indian army, the inquiry conducted by the District Magistrate, and the Divisional Commissioner established the crime, but the inquiry conducted by the army and the Press Council of India rejected the charges as baseless.

On the whole the provisions of the two Acts violate the non-deragable right to life enshrined in international covenants. In March 1991, most members of the UN Human Rights Committee found that the powers of the Act were incompatible with India's international obligations to uphold and protected human rights, in particular the right to life. The two Acts provide sweeping powers to the security forces to shoot and kill peaceful demonstrators and unarmed civilians. They explicitly sanction the killing of persons who are merely violating the laws prohibiting the assembly of five or more persons. "Thus by encouraging the use of lethal force and protecting the police from accountability for their actions, these laws effectively grant security forces a license to kill".

APPENDIX - XIII

TERRORIST AND DISRUPTIVE ACTIVITIES ACT (TADA), 1990

The TADA has been widely used in Kashmir since 1987 against those suspected of having links with 'militant group' or who are opposing the Centre's policy in the state. The Act came into force in the state in 1985 with the consent of the state government headed by G.M. Shah, apparently as a quid pro quo for his induction into power through the back door. The Act, amended in 1987, authorizes administrative detention without formal charge or trial for up to one year. Under the Act, anyone who "knowingly facilitates the commission of any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to a term of life and shall also be liable to fine". A disruptive activity under the Act is defined as "any action taken, whether by act or speech or through any other media or in any other manner whatsoever, (I) which questions, disrupts, or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India; or (II) which is intended to bring about or supports any claim, whether directly or indirectly, for the cession or secession of any part of India from the Union".

The provisions of TADA fail to meet the international standards of the fundamental principles of preventive detention set in ICCPR, the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, besides those enshrined in Article 22 of the Indian Constitution. The lengthy period of detention before trial violates Article 9 of the ICCPR and Principles 11 and 32 of the UN Body of Principles which call for a prompt trial of the detainees and their right to receive communication of any order of detention, together with the reasons. Further, while under ordinary law a detainee may be held in police custody for a period of 15 days before transfer to judicial custody, under section 20 of

the TADA he can be held up to 60 days. Obviously, the extended period of police remand substantially increases the risk of torture.

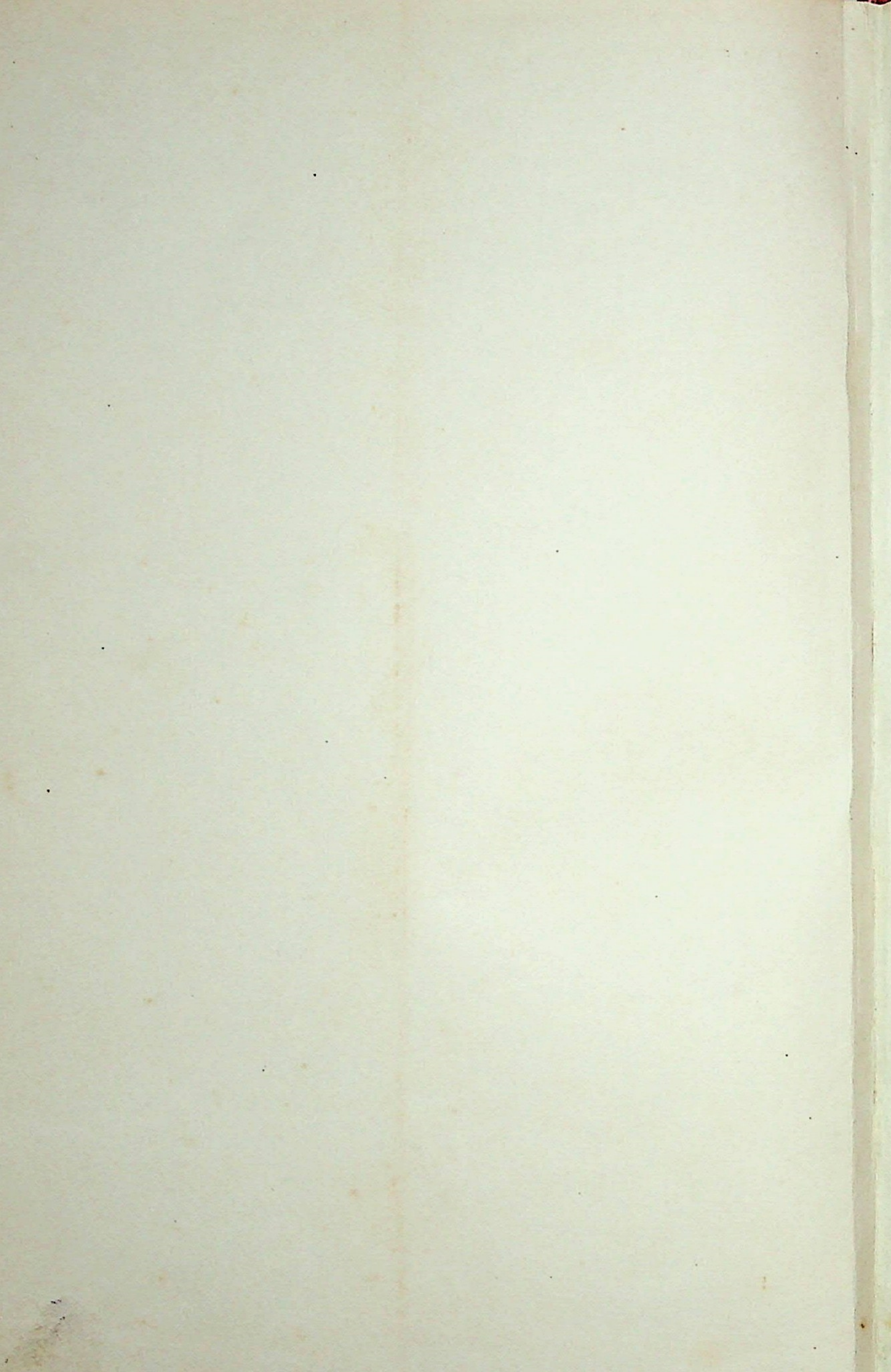
The TADA also falls short of the international standards of trial procedures. Although the "fair trial and due process guarantees contained in the ICCPR may be suspended during a time of officially declared emergency, the wholesale nature of such suspension in Kashmir and the broad use of anti-terrorist legislation to arbitrarily detain political opponents of the government indicate that such derogations have not been limited, as they must, to extend strictly required by the exigencies of the situation". For instance, under TADA, all proceedings before a designated court shall be conducted in secret "at any place other than (the court's) ordinary place of sitting". It is a violation of Article 14 of the ICCPR which enjoins "public hearing by a competent, independent and impartial tribunal established by law". To date, the Indian government has offered "no adequate explanation as to why public order or national security requires the suspension of the right to a public trial in Kashmir". The arrest of Shabnam Lone, the young advocate daughter of Abdul Ghani Lone, president of People's Conference, on "vague suspicion" of having links with an arrested "militant" is "a telling reflection on how an Act meant to contain terrorism is misused". The Shabnam case also set a valuable precedent because she has become perhaps the first person to get bail, though only because of her contacts. Thus TADA is often described as the *Creme de la creme* of all the anti-people legislation.

Under the Act, two designated courts were established in the state, one at Srinagar and another at Jammu. After Jagmohan's induction as Governor, thousands of people were booked under the Act without proper justification. To create further difficulties for under-trials, on 1 May, 1990, Governor Jagmohan wound up the designated court at Srinagar and directed the designated court at Jammu to deal with the whole state. Since then people from far-flung areas have to go to Jammu to face trial. From Srinagar to Jammu it is a 12 hour journey by bus. This severely restricts the detainees' access to family and legal counsel, a right which cannot be denied under Indian law or international legal procedures. Moreover, TADA (Sec 16 (2) permits the identity and address of any witness to be kept secret. This is a blatant violation of Article 14 of the ICCPR which guarantees each defendant "the right to examine or have examined the witness against him ...". The TADA also reverses the presumption of innocence by placing the burden on the accused to prove himself not guilty. This clearly violates both interna-

tional standards any ordinary Indian law. The TADA also substantially amends the Indian Criminal Procedure Code (Cr. Pc.) and the Indian Evidence Act to allow the introduction into evidence of extra-judicial confessions made to police officers. This certainly increase the risk of torture while extracting confessions which in any case cannot be treated as evidence either under ordinary law or customary international law. Under TADA, the accused also cannot appeal to High Court of Kashmir. Thus aggrieved by the decision of a designated court, the accused can only approach the Indian Supreme Court fro redress. However, this involves, apart from other difficulties, financial expenses which few can afford.







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3. *Kashmir : Need for Sub-Continental Political Initiative.*

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The Compilation of this diversity and divergence of views is intended to provide the reader with a glimpse of the range and complexity of the Kashmir Problem, as well as to isolate and clarify the issues that must be confronted by leaders of India, Pakistan and Kashmir. Since the eruption of militancy in Kashmir, new complicacies have cropped up and it is for the first time since independence that a realization has dawned upon the subcontinental leaders to find a lasting solution to the vexed problem.



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